

THIS INSTRUMENT PREPARED BY:
AND RETURN TO:

Kate Saft, Esq.
Greenspoon Marder, LLP
201 East Pine Street, Suite 500
Orlando, Florida 32801

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Rhonda Francis Summit County Recorder
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By PARR BROWN GEE AND LOVELESS
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SECOND AMENDMENT TO SHARED USE AGREEMENT

This Second Amendment to Shared Use Agreement is made as of the 13th day of November, 2020, by and between THE LODGE AT WESTGATE PARK CITY RESORT & SPA CONDOMINIUM ASSOCIATION, INC., a Utah non-profit corporation (hereinafter referred to as the "Condominium Association"), WESTGATE PARK CITY RESORT & SPA OWNERS ASSOCIATION, INC., a Utah non-profit corporation (hereinafter referred to as the "Timeshare Association"), and WESTGATE RESORTS, LTD., a Florida limited partnership (hereinafter referred to as "Developer"). The Condominium Association and the Timeshare Association shall be referred to collectively as the "Associations."

WITNESSETH:

WHEREAS, Developer and the Associations are a party to that certain Shared Use Agreement recorded August 29, 2007 as Entry No. 824052, in Book 1886, at Page 91 of the Official Records of Summit County, Utah, which Shared Use Agreement affects the real property described on Exhibit "A" attached hereto and incorporated herein, as more particularly set forth therein.

WHEREAS, Developer and the Associations desire to amend the Shared Use Agreement as set forth below.

NOW, THEREFORE, the Shared Use Agreement is amended as follows:

1. The above recitals are true and correct and form a material part of this Amendment.
2. Section 7 of the Shared Use Agreement is amended as follows:

a. All costs and expenses incidental to the maintenance, operation, repair and replacement of the Shared Amenities shall be assessed against each Association allocated with the Timeshare Project paying 45% of the total of such costs and the Condominium Project paying 55% of the total of such costs, subject to the following: The Condominium Association's obligation is limited to the payment of an "Amenity Use Fee." The Condominium Association's Amenity Use Fee for 2020 shall be \$500,455, which is inclusive of a 10% management fee as indicated by that certain Settlement Agreement dated October 27, 2020 by and between the Condominium Association and the Developer (the "Settlement Agreement") and all attachments including a "2021 Base Amenity Budget," a copy of which Settlement Agreement is attached hereto marked Exhibit "1" and incorporated herein by this reference. The Condominium Association's Amenity Use Fee for 2021, assuming historical occupancy levels, will be no

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more than \$901,238, as indicated by the 2021 Base Amenity Budget, inclusive of a 10% management fee payable to Westgate. Due to uncertainties resulting from the COVID-19 pandemic, the Condominium Association's Amenity Use Fee will be reduced and paid based on actual occupancy in 2021 compared to occupancy during the period from March 1, 2019 to February 28, 2020 according to the terms set forth in paragraph 2.d. of the Settlement Agreement. Annual increases in the Condominium's Amenity Use Fee over the 2021 Base Amenity Budget will be limited to no more than the amount of 55% of the Developer's cost increases in the 2021 Base Amenity Budget categories, subject to the following limitations and carve outs. Annual increases in the 2021 Base Budget categories for the Condominium Association's Amenity Use Fee over the 2021 Base Budget and then from year to year, shall be commercially reasonable based on the actual increase in the cost of labor and materials in said categories and will be limited as follows: (i) labor increases shall be limited to the actual percentage increase from the prior year as determined by the statistics issued by PayScale for competitive properties as summarized on Exhibit "D" to the Settlement Agreement; (ii) material cost increases shall be limited to no more than five percent (5%) from the prior year, unless there are unforeseen costs outside the reasonable control of the parties including, but not limited to, technology changes, mechanical issues, labor strikes, wars, insurrections, hostilities, acts of terrorism, or acts of God, in which case there shall be no limitation on the increase in costs affected by such unforeseen circumstances; and (iii) employee headcount increases or any reduction in services will require mutual approval from the Condominium Association and the Developer. The parties agree to act in good faith to resolve any disagreements regarding proposed increases, to cooperate to minimize costs. Upon request of the Condominium Association, the Developer will solicit competitive bids from at least two independent contractors or suppliers for any specific services or supplies if the Condominium Association questions the proposed costs and the parties will agree to use the contractor or supplier providing the lowest responsible bid. Notwithstanding the foregoing, the Condominium Association's Amenity Use Fee for 2022 will be no more than \$925,000 and 2023 will be no more than \$950,000.

In the event operations of the Westgate Park City Project are substantially impacted by unforeseen circumstances outside the reasonable control of the parties such as labor strikes, wars, insurrections, hostilities, acts of terrorism, acts of God, pandemic (including the continuation of the COVID-19 if actual occupancy is below 30% calculated as set forth in paragraph 2.d. of the Settlement Agreement) or acts or omissions of any governmental authority (collectively called Force Majeure), the parties shall meet in good faith to negotiate a revised Amenity Use Fee budget. In the event the parties fail to agree to a revised Amenity Use Fee budget, the parties shall follow the procedures as set forth in section 7.e. of this Agreement. The Parties agree to act in good faith to resolve any disagreements regarding proposed increases, to cooperate to minimize costs and to submit any disputes to binding arbitration under the procedure set forth in section 7.e. of this Agreement. Upon request of the Condominium Association, the Developer will solicit competitive bids from at least two independent contractors or suppliers for any specific services or supplies if the Condominium Association questions the proposed costs and the Parties will agree to use the contractor or supplier providing the lowest responsible bid.

~~in proportion to which the square footage of all living units contained within the Timeshare Project and the Condominium Project bears to the total square footage of all living units in both the Timeshare Project and the Condominium Project. The Associations shall assess their respective unit owners, including the Developer, for their respective share of such expenses in accordance with the provisions set forth in the Timeshare Declaration and Condominium Declaration for allocating and making assessments of common expenses. With respect to the Timeshare Association, such ~~Such~~ costs shall include, but not necessarily be limited to, insurance, taxes, labor, administrative personnel, reasonable reserves and a Developer administrative fee equal to 15% of the total of such costs.~~

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The Amenity Use Fee shall be used to pay and shall be in satisfaction of the Condominium Association's share of obligations under the Shared Use Agreement. The Shared Amenities shall include all those listed in Exhibit H to the 2009 Budget Methodology as set forth in paragraph 3.c. of the Settlement Agreement including the Parking Garage, the Lobby, Library/Lounge, Indoor/Outdoor Pool, Outdoor Hot tubs (2); Tennis Court, Basketball Court, Playground, Outdoor grill Area, Skier Services and Ski Lockers (including skier valet), Common Walkways, Landscaping, Concierge Services, Bell Services, Transportation Services, Security and Internet. Service levels provided by the Developer shall remain the same as provided in 2019, which is reflected in the 2021 Base Amenity Budget. However, the Developer (i) may adjust the hours of services and number of shuttles available to reduce transportation costs; and (ii) may adjust the number of hours of operation for concierge and skier services based upon occupancy levels and staffing needs. All changes in service levels shall be reviewed annually and jointly approved by the Condominium Association acting in a good faith, commercially reasonable manner, and the Developer prior to implementation. In the event of any reduction in service levels, the Condominium Association will receive the benefit of any proportionate cost savings. The Condominium Association shall pay for the entire cost of all pools and amenities located in Building 19 and these costs shall not be part of the Amenity Use Fee.

b. In the event that Developer defaults in its obligation to maintain the Shared Amenities as required hereunder and if such default is not cured after sixty (60) days written notice to Developer by any Association or Authorized User of such default, then the Associations (on behalf of themselves or any aggrieved Authorized User) may, but are not obligated to, perform any such required maintenance, including any reconstruction or repair deemed necessary by the Associations. In the event of any self-help by the Associations in accordance herewith, the Associations shall bill the Developer the Developer's proportionate share under the Timeshare Declaration and Condominium Declaration, both as the owner of any Timeshare Weeks, Condominium Units, or the Commercial Units. The Developer shall be obligated to pay such sum within thirty (30) days of the receipt of the invoice on same. In addition to the foregoing, the Associations, jointly and severally, shall be entitled to pursue any and all legal remedies they may have against Developer in connection with Developer's failure to maintain the Shared Amenities. Easements over and through all portions of the Master Parcel are reserved to the Associations for the purpose of enforcing the Associations' right of self-help under this Section 7.b., and the Associations may only enter any portion thereof to remove or remedy any defaults by the Developer. If the Associations, after notice to Developer of any default in accordance herewith and Developer's continued failure to cure the same, do in fact exercise their right to cure such defaults, the Developer's proportionate share as set forth above shall become a charge and continuing lien against the Developer's interest in the Developer Controlled Property as well as an individual and personal obligation of the Developer; provided, however, that nothing in this Section shall be construed to require Associations to take any action to enforce their rights under this Section 7.b.

c. Notwithstanding anything contained herein to the contrary, the obligation of the Associations for the costs and expenses set forth herein shall apply irrespective of the fact that some or all of these systems and equipment referenced herein, including electrical, mechanical, water, plumbing, sewage and other systems shall not be contained within the boundaries of the Condominium Project or the Timeshare Project. The Developer reserves the right to separately meter any or all utilities in order to carry out the purposes and intentions hereof.

d. For all years subsequent to the first fiscal year of the Associations (the first fiscal year being the period commencing with the recording of this Agreement through December 31st of that year, with the understanding that the first fiscal year may be a partial year, or such other fiscal years may be

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adopted by the Associations as the first fiscal year), the Developer shall provide to the Associations, by November 1 of each year within thirty (30) days following the end of any such fiscal year, an estimated operating budget for the Shared Amenities for the Timeshare Association and an estimated budget for the Amenity Use Fee for the Condominium Association, for the expenses described above for the ensuing year of the Associations, together with a statement of expenditures for all such expenses incurred by the Developer in the maintenance of such areas for the preceding fiscal year of the Associations. The Associations shall have twenty ten (2010) days from the delivery of said notice by the Developer in which to approve or reject the budget provided by the Developer, ~~or, in the alternative, to suggest an alternative budget.~~ If an Association rejects the Developer's proposed budget, the Association shall notify the Developer of the reasons for its rejection and the parties shall work in good faith to resolve their differences. Failure of the Associations to respond, in writing, within said twenty ten (2010) day period shall be deemed to be an approval by the Associations of the proposed budget. ~~assessment.~~ In the event the budget as proposed by the Developer is not approved by either Association as set forth herein, the Associations shall continue to pay the assessments applicable for the previous year. The Developer shall in its sole discretion be entitled to increase the Timeshare Association's total assessment and the Condominium Association's Amenity Use Fee by a sum not to exceed **fifteen five (15%) percent** of the previous years' assessments and Amenity Use Fee until such budget has been approved by agreement of the parties or determined by arbitration as provided below. ~~as provided herein, by the Associations in order to cover any projected deficits.~~

e. Any controversy or claim under this Agreement or any disputes regarding the annual budget, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, before a single arbitrator. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. In any event, any demand for arbitration regarding the annual budget must be filed before the beginning of the fiscal year for the budget in dispute. The arbitrator shall resolve any budget disputes based upon the terms of this Agreement, the agreed upon budget procedures set forth herein, and the exhibits hereto. The Arbitrator's decision shall be binding only for the particular annual budget at issue and shall not apply to any future budgets. In the event an Association does not approve the budget, the matter shall be submitted for binding arbitration in accordance with the rules of the American Arbitration Association. Each party shall select one (1) arbitrator, and these two (2) arbitrators shall select a third arbitrator. The arbitrators must adopt either the budget proposed by the Developer or the budget proposed by the objecting Association in its entirety and shall have no discretion to alter either budget nor make any compromise in its decision, unless agreed to by both parties. The same procedure shall apply with respect to objections by an the Timeshare Association to a special assessment as provided below. The arbitration provisions contained herein shall be strictly limited to the items set forth herein and shall not apply to any other provisions of this Easement Agreement. In the event that only one Association objects to the budget or the special assessment, the non-objecting Association shall also be a party to the arbitration.

f. In the event the Developer shall, at any time (except during the first fiscal year of the Associations) determine that the estimated amount assessed to the Timeshare Associations for use of the Easements and for Shared Amenities is insufficient to pay the actual maintenance cost thereof (including reserves), the Developer shall immediately notify the Timeshare Associations of the deficit and request the Timeshare Associations to approve a special assessment in order to pay the deficit. The Timeshare Associations shall approve or reject the special assessment within fifteen (15) days of delivery of notice thereof by the Developer. Failure of the Timeshare Associations to respond in writing within the fifteen (15) day period shall be deemed to be an approval of the Timeshare Associations of the assessment. The special assessment shall be payable by the Timeshare Associations within thirty (30) days of approval, as provided for herein.

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g. All payments (except special assessments to the Timeshare Association, which are due as provided for in the notice of special assessment) required to be made hereunder by the Associations to the Developer, shall be payable by the Associations on a monthly basis, all payments due in advance on the first day of each month.

h. Notwithstanding anything contained herein to the contrary, the Developer shall not be required to subsidize any deficits caused by an insufficiency in the budget, including but not limited to a failure by the Associations to approve any operating budget proposed by the Developer or to approve any special assessment proposed by the Developer. In this regard it is understood that the Developer, its successors and assigns shall not be liable to the Associations nor any member of the Associations for a lack of adequate service or for failure to properly maintain the Shared Amenities in the event the Associations fail to approve the budget proposed by the Developer or any special assessment; provided, however, that (i) the Condominium Association's obligation with respect to the Shared Amenities is limited to the Amenity Use Fee as provided in Section 7a. above, and (ii) the Developer's obligations to provide services to and maintain the Shared Amenities for the use of the Condominium Association and its members shall not be reduced except to the extent the Condominium Association fails to pay the Amenity Use Fee or agrees to a reduction in services.

~~i. In addition to the budget referenced herein, Developer may at its option provide to the Associations a separate budget for the costs and expenses set forth herein or may provide for such items of expense to be directly billed to the Associations if, as, and when necessary.~~

3. Section 19 f. shall be amended as follows.

f. Joinder and Consent. All mortgagees and holders of Interest in and to the property encumbered by this Agreement shall execute a Joinder and Consent to all terms and provisions hereof. However, the Developer may further amend the Shared Use Agreement as it pertains to the Timeshare Association without the Condominium Association's consent, provided that there is no change to the Settlement Agreement or the 2020 Base Budget procedures.

4. Capitalized words and phrases shall have the meaning set forth in the Shared Use Agreement, unless otherwise defined herein.

5. Except as herein modified, the Shared Use Agreement shall remain unmodified and in full force and effect. To the extent of any conflict, the terms of this Amendment shall control and govern.

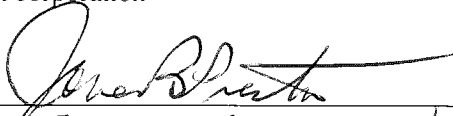
IN WITNESS WHEREOF, the Developer has executed this First Amendment to Shared Use Agreement on the date set forth above.

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Signed, Sealed and Delivered
in the Presence of:

THE LODGE AT WESTGATE PARK CITY RESORT
& SPA CONDOMINIUM ASSOCIATION, INC., a Utah
non-profit corporation

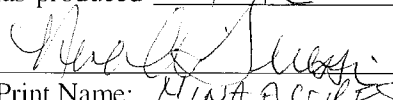
Print Name:

By: 
Name: JAMES B. PRESTON
Title: PRESIDENT

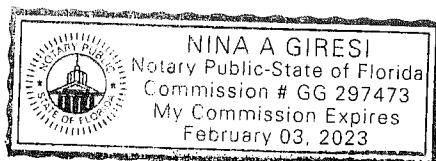
Print Name:

STATE OF Florida)
) SS.
COUNTY OF Indian)
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The foregoing instrument was acknowledged before me this 14th day of December, 2020,
by James Preston, as _____ of THE LODGE AT WESTGATE PARK CITY
RESORT & SPA CONDOMINIUM ASSOCIATION, INC., a Utah non-profit corporation, on behalf of the
corporation. He is personally known to me or has produced FLDL as a type of
identification.


Print Name: NINA A GIRESI
Notary Public, State of: FL
Serial Number, if any: _____

My commission expires:



Underlined text indicates additions;
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WESTGATE PARK CITY RESORT & SPA OWNERS
ASSOCIATION, INC., a Utah non-profit corporation

David Siegel
Print Name:

David Siegel
Print Name:

STATE OF)
) SS.
COUNTY OF)

By: [Signature]
Name: David Siegel
Title: President

The foregoing instrument was acknowledged before me this 4 day of December, 2020,
by David Siegel, as President of WESTGATE PARK CITY RESORT & SPA
OWNERS ASSOCIATION, INC., a Utah non-profit corporation, on behalf of the corporation. He is
personally known to me or has produced _____ as a type of identification.

My commission expires: 10/25/21

[Signature]
Print Name: Stephanie Grajales
Notary Public, State of: Florida
Serial Number, if any: _____



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WESTGATE RESORTS, LTD., a Florida limited partnership

By: WESTGATE RESORTS, INC., a Florida corporation, General Partner

By: [Signature]
Name: David Siegel
Title: President

Print Name: [Signature]

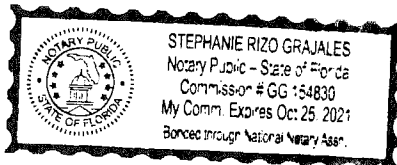
Print Name: Stephanie Rizo

STATE OF FLORIDA)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this 4 day of December, 2020, by David Siegel, as president, of WESTGATE RESORTS, INC., a Florida corporation, as General Partner of WESTGATE RESORTS, LTD., a Florida limited partnership, on behalf of the partnership. He is personally known to me or has produced as a type of identification.

[Signature]
Print Name: Stephanie Grajales
Notary Public, State of: Florida
Serial Number, if any: _____

My commission expires: 10/25/21



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EXHIBIT “A”
TO SECOND AMENDMENT TO SHARED USE
AGREEMENT

THIS INSTRUMENT PREPARED BY:
LEONARD LUBART, ESQUIRE
GREENSPOON MARDER, P.A.
Trade Centre South, Suite 700
100 West Cypress Creek Road
Fort Lauderdale, Florida 33309

SHARED USE AGREEMENT

THIS AGREEMENT, made and entered into this 1th day of August, 2007, by and between THE LODGE AT WESTGATE PARK CITY RESORT & SPA CONDOMINIUM ASSOCIATION, INC., a Utah non-profit corporation (hereinafter referred to as the "Condominium Association"), WESTGATE PARK CITY RESORT & SPA OWNERS ASSOCIATION, INC., a Utah non-profit corporation (hereinafter referred to as the "Timeshare Association"), and WESTGATE RESORTS, LTD., a Florida limited partnership (hereinafter referred to as "Developer"). The Condominium Association and the Timeshare Association shall be referred to collectively as the "Associations."

PRELIMINARY RECITALS

A. The Developer has created a mixed- development consisting of a timeshare regime, retail, and resort whole ownership upon the property described on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Master Parcel"; and

B. Portions of the Master Parcel known as Buildings 10 and 11 have been submitted to a timeshare form of ownership (hereinafter referred to as the "Timeshare Project") pursuant to that certain Declaration of Covenants, Conditions and Restrictions recorded on the 28th day of March, 2002 as Entry No. 614781 in Book 1442 at Page 1, of the Official Records; as amended by Amendment recorded on the 26th day of March 2003 as Entry No. 652526 in Book 1521 at Page 700, of the Official Records, said amendment being re-recorded on July 28, 2005 as Entry No. 744930 in Book 1719 at Page 1956 of the Official Records; as amended on February 3, 2004 as Entry No. 687940 in Book 1597 at Page 338 of the Official Records; as amended on January 23, 2006 as Entry No. 766325 in Book 1766 at Page 1157 of the Official Records; as amended on March 5, 2007 as Entry No. 806270 in Book 1851 at Page 648 of the Official Records; and as amended on March 5, 2007 as Entry No. 8062671 in Book 1851 at page 659 of the Official Records (hereinafter referred to as the "Timeshare Declaration"), as amended from time to time; and

C. A portion of the Master Parcel known as Building Number 19 has been submitted to a condominium form of ownership (hereinafter referred to as the "Condominium Project") pursuant to that certain plat for The Lodge at Westgate Park City Resort and Spa, a condominium, recorded on June 19, 2007 as Entry No. 818012, in Book 1874 at Page 478 of the Official Records (the "Condominium Plat"); and that certain Declaration of Condominium and Declaration of Covenants, Conditions and Restrictions for The Lodge at Westgate Park City Resort and Spa, a condominium, recorded on June 29, 2007 as Entry No. 818013, in Book 1874,

Exhibit

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at Page 479 of the Official Records, as amended from time to time (hereinafter referred to as the "Condominium Declaration"); and

D. The Developer has retained ownership of a portion of the Master Parcel which is not included within the Timeshare Project or the Condominium Project, and in addition thereto, the Developer is the owner of the Developer Retained Property as defined in the Timeshare Declaration, and the Commercial Unit as described in the Condominium Plat and the Condominium Declaration (all of which is more particularly described on Exhibit "B" attached hereto and made a part hereof (hereinafter referred to as the Developer Controlled Property).

E. Located within the Developer Controlled Property are the parking garage, electrical panels, air conditioning chillers, boilers, conduits, heating equipment, water, sewer, telephone, cable television, garbage disposal; and other recreational and other commonly used facilities, including the lobby, library, lounge, indoor-outdoor swimming pool, steam room, sauna, outdoor jacuzzi, skier services and ski lockers, tennis court, basketball court, playground, an additional parking garage and swimming pool (which is now under construction), and common walkways, paths, and landscaping; and, in addition, certain portions of the Developer Controlled Property may share party or common walls, roof structures, foundations and building facades, with the Timeshare Project and Condominium Project (hereinafter referred to as the "Shared Amenities."

F. The Developer desires to grant in favor of each of the Associations, and their members a right of access, ingress, egress, and use of the Shared Amenities, subject to the terms, conditions and limitations set forth herein, and subject further to the obligation of the Association to pay their respective proportionate share of the costs and expenses incurred in connection with the operation, maintenance, upkeep and repair of the Shared Amenities as more particularly set forth herein.

NOW THEREFORE, in consideration of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. **Recitals.** The Preliminary Recitals as set forth above are incorporated herein and are made a part hereof.

2. **Terms.** The terms not otherwise defined herein shall have the meanings as set forth in the Timeshare Declaration, the Condominium Declaration and the Condominium Plat if so defined, unless the context clearly requires otherwise,.

3. **Easements in Favor of the Associations for Utilities, Ingress, Egress and Support.** Developer hereby grants to the Associations, their members and any other authorized

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users pursuant to the applicable provisions of the Timeshare Declaration and the Condominium Declaration ("Authorized Users") the following non-exclusive perpetual easements of access, ingress and egress over portions of the Developer Controlled Property necessary to use and enjoy the Shared Amenities as follows:

a. An easement of access, ingress and egress over and through such portions of the Developer Controlled Property as may be necessary to provide access to the Condominium Project and the Timeshare Project, including, but not limited to, an easement for access, ingress and egress to all stairwells, and elevators for the purpose of having access, ingress and egress to the Condominium Project and the Timeshare Project, specifically excluding any portion of the Developer Controlled Property designated for the exclusive occupancy by the Developer from time to time.

b. An easement of access and use of all Shared Amenities and an easement for use of the elevator shafts and every other means of access to all portions of the Condominium Project and the Timeshare Project.

c. An easement of subjacent and lateral support and all other support in every portion of the Developer Controlled Property which contributes to the support of the Condominium Project and Timeshare Project.

4. **Easements in Favor of Developer - Utilities - Support.** The Developer, its successors, assigns, licensees and grantees shall have a non-exclusive perpetual easement of access, ingress and egress through such portions of the Condominium Project and the Timeshare Project as may be necessary to have access to all portions of the Developer Controlled Property. Such easement shall include access, ingress and egress to all stairwells, elevators and utilities for the provision of water, gas, electricity, telephone as well as sewage lines presently existing, or hereafter constructed and including all facilities for the delivery of cable telephone, air conditioning, heating and garbage disposal. The Developer, its successors, assigns, licensees and grantees shall also have a non-exclusive perpetual easement of subjacent and lateral support and all other support in every portion of the Condominium Project and the Timeshare Project which contributes to the support of the Developer Controlled Property.

5. **Cross Easements.** In addition to any other easements which have otherwise been granted pursuant to the Timeshare Declarations or the Condominium Declaration, the Associations and the Developer, jointly and severally, hereby grant and declare in favor of the other for the benefit of the any Authorized User and the Developer, its successors or assigns, a non-exclusive perpetual easement for access, ingress and egress over portions of the Master Parcel as may be necessary for (i) access to the Units, as defined in the Timeshare Declaration and Condominium Declaration, (ii) maintenance, repair, or reconstruction of any portion of the Master Parcel; and (iii) as may be necessary to have access and use of the Shared Amenities. To

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the extent any of the Shared Amenities have adjoining party walls, the Developer and Associations, as the case may be, grant and declare an easement of subjacent and lateral and structural support in all common or party walls, roof structures, foundations, building façade or any other adjoining structures. Subject to the payment by the Associations of their respective proportionate shares as set forth in paragraph 7 hereof, it shall be the obligation of the Developer to maintain all such shared or adjoining party walls for the benefit of both Developer and the Associations (and their members and other Authorized Users). Except for any damage or destruction caused by the negligence or misconduct of any particular party, the cost of maintenance and repair of all damage, destruction, and routine wear and tear to all adjoining party walls shall be separately charged by Developer to the applicable Association with which Developer shares such party wall and shall be split equally by such Association and the Developer. Each Association shall pay all invoices or bills received from Developer for maintenance, repair or reconstruction of adjoining party walls within thirty (30) days from the date when such bill or invoice is received by that Association. To the extent that any Unit, or any other portion of the Condominium Project encroaches on any portion of the Developer Controlled Property, whether by reason of any deviation from the plats or plans relating to either such property, or in the construction, repair, renovation, restoration or repair of any improvement (including any adjoining party wall) or by reason of the settling or shifting of any land or improvement, a valid easement for such encroachment shall automatically exist in favor of the Association and all owners of Units in the Condominium Project.

6. **Easements in Favor of Associations for Use of Shared Amenities.**

The Developer does hereby grant, declare, create and establish in favor of the Associations and their members, easements over portions of the Developer Controlled Property as may be necessary to utilize and enjoy the Shared Amenities, subject to the following:

a. parking shall only be in areas designated by the Developer from time to time; and,

b. any part of the Developer Controlled Property whether located in the Timeshare Project, the Condominium Project, or the Master Parcel which has not been designated herein as a Shared Amenity shall be reserved for use by the Developer, unless such areas otherwise made available generally to the public or members of the Timeshare Project or Condominium Project as determined from time to time by Developer in its sole direction.

c. the Developer reserves the right to change the designation of portions of the Developer Controlled Property and to designate additional areas or facilities as Shared Amenities, and in connection therewith, to make appropriate adjustments to this Agreement, including, but not limited to, Paragraph 7 in accordance therewith; provided that no such change by Developer shall reduce or diminish the Shared Amenities (or any portion thereof) or materially and adversely modify or alter the easement or use rights granted hereunder, without the prior written consent of both Associations. In addition, the Developer reserves the right to convey any portion of the Developer Controlled Property to either of the Associations at any time, and such Association shall

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be obligated to accept such conveyance whereupon such Association shall be responsible for all fees and costs in connection therewith.

d. the foregoing easements shall be specifically subject to rules and regulations as may be established and adopted from time to time by the Developer in its sole discretion and shall be further conditioned upon payment by the Associations of their prorata share of the costs and expenses incurred in the operation, maintenance, and management of the Shared Amenities as referenced herein pursuant to the terms and conditions hereinafter set forth. It is specifically understood and agreed that the Developer, its successors, and assigns shall have the full right and authority to control and manage the Shared Amenities subject to the rights and easements herein granted.

7. **Maintenance Obligations of the Developer and the Associations.** The Developer, or the management firm or master association designated by the Developer, in Developer's sole discretion, shall maintain, operate, repair and replace the Shared Amenities. However, notwithstanding anything herein to the contrary, in the event that any lender becomes the legal owner, through foreclosure or otherwise, of any portion of the Shared Amenities ("Lender Controlled Property"), then such lender shall fully assume from the Developer all of Developer's responsibility hereunder to maintain the Lender Controlled Property. Any lender that possesses Lender Controlled Property in accordance herewith may contract with any party, in that lender's sole discretion (including Developer or any affiliate or subsidiary of Developer), to perform any maintenance obligations of lender for the Lender Controlled Property. All contracts between Developer and any other party to maintain the Shared Amenities in accordance with this Agreement must be fully terminable in relation to any portion of the Shared Amenities that becomes Lender Controlled Property. Developer shall be obligated to assign to such lender that owns any Lender Controlled Property all other rights and privileges of Developer under this Agreement, including any lien rights or the right to have assigned to Developer any lien rights, in relation to the Lender Controlled Property owned by that certain lender.

The cost and expenses incurred in connection with the foregoing shall be shared by the Developer and the Associations as follows:

a. All costs and expenses incidental to the maintenance, operation, repair, and replacement of the Shared Amenities shall be assessed against each Association in proportion to which the square footage of all living units contained within the Timeshare Project and the Condominium Project bears to the total square footage of all living units in both the Timeshare Project and the Condominium Project. The Associations shall assess their respective unit owners, including the Developer, for their respective share of such expenses in accordance with the provisions set forth in the Timeshare Declaration and Condominium Declaration for allocating and making assessments of common expenses. Such costs shall include, but not necessarily be limited to, insurance, taxes, labor, administrative personnel, reasonable reserves, and a Developer administrative fee equal to 15% of the total of such costs.

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b. In the event that Developer defaults in its obligation to maintain the Shared Amenities as required hereunder and if such default is not cured after sixty (60) days written notice to Developer by any Association or Authorized User of such default, then the Associations (on behalf of themselves or any aggrieved Authorized User) may, but are not obligated to, perform any such required maintenance, including any reconstruction or repair deemed necessary by the Associations. In the event of any self-help by the Associations in accordance herewith, the Associations shall bill the Developer the Developer's proportionate share under the Timeshare Declaration and Condominium Declaration, both as the owner of any Timeshare Weeks, Condominium Units, or the Commercial Units. The Developer shall be obligated to pay such sum within thirty (30) days of the receipt of the invoice on same. In addition to the foregoing, the Associations, jointly and severally, shall be entitled to pursue any and all legal remedies they may have against Developer in connection with Developer's failure to maintain the Shared Amenities. Easements over and through all portions of the Master Parcel are reserved to the Associations for the purpose of enforcing the Associations' right of self-help under this Section 7.b., and the Associations may only enter any portion thereof to remove or remedy any defaults by the Developer. If the Associations, after notice to Developer of any default in accordance herewith and Developer's continued failure to cure the same, do in fact exercise their right to cure such defaults, the Developer's proportionate share as set forth above shall become a charge and continuing lien against the Developer's interest in the Developer Controlled Property as well as an individual and personal obligation of the Developer; provided, however, that nothing in this Section shall be construed to require Associations to take any action to enforce their rights under this Section 7.b.

c. Notwithstanding anything contained herein to the contrary, the obligation of the Associations for the costs and expenses set forth herein shall apply irrespective of the fact that some or all of these systems and equipment referenced herein, including electrical, mechanical, water, plumbing, sewage and other systems shall not be contained within the boundaries of the Condominium Project or the Timeshare Project. The Developer reserves the right to separately meter any or all utilities in order to carry out the purposes and intentions hereof.

d. For all years subsequent to the first fiscal year of the Associations (the first fiscal year being the period commencing with the recording of this Agreement through December 31st of that year, with the understanding that the first fiscal year may be a partial year, or such other fiscal years may be adopted by the Associations as the first fiscal year), the Developer shall provide to the Associations, within thirty (30) days following the end of any such fiscal year, an estimated operating budget for the Shared Amenities, for the expenses described above for the ensuing year of the Associations, together with a statement of expenditures for all such expenses incurred by the Developer in the maintenance of such areas for the proceeding fiscal year of the Associations. The Associations shall have ten (10) days from the delivery of said notice by the Developer in which to approve or reject the budget provided by the Developer, or, in the alternative, to suggest an alternative budget. Failure of the Associations to

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respond, in writing, within said ten (10) day period shall be deemed to be an approval by the Associations of the assessment. In the event the budget as proposed by the Developer is not approved by either Association as set forth herein, the Associations shall continue to pay the assessments applicable for the previous year. The Developer shall in its sole discretion be entitled to increase the total assessment by a sum not to exceed **fifteen (15%) percent** of the previous years assessments until such budget has been approved, as provided herein, by the Associations in order to cover any projected deficits.

e. In the event an Association does not approve the budget, the matter shall be submitted for binding arbitration in accordance with the rules of the American Arbitration Association. Each party shall select one (1) arbitrator, and these two (2) arbitrators shall select a third arbitrator. The arbitrators must adopt either the budget proposed by the Developer or the budget proposed by the objecting Association in its entirety and shall have no discretion to alter either budget nor make any compromise in its decision, unless agreed to by both parties. The same procedure shall apply with respect to objections by an Association to a special assessment as provided below. The arbitration provisions contained herein shall be strictly limited to the items set forth herein and shall not apply to any other provisions of this Easement Agreement. In the event that only one Association objects to the budget or the special assessment, the non-objecting Association shall also be a party to the arbitration.

f. In the event the Developer shall, at any time (except during the first fiscal year of the Associations) determine that the estimated amount assessed to the Associations for use of the Easements and for Shared Amenities is insufficient to pay the actual maintenance cost thereof (including reserves), the Developer shall immediately notify the Associations of the deficit and request the Associations to approve a special assessment in order to pay the deficit. The Associations shall approve or reject the special assessment within fifteen (15) days of delivery of notice thereof by the Developer. Failure of the Associations to respond in writing within the fifteen (15) day period shall be deemed to be an approval of the Associations of the assessment. The special assessment shall be payable by the Associations within thirty (30) days of approval, as provided for herein.

g. All payments (except special assessments, which are due as provided for in the notice of special assessment) required to be made hereunder by the Associations to the Developer, shall be payable by the Associations on a monthly basis, all payments due in advance on the first day of each month.

h. Notwithstanding anything contained herein to the contrary, the Developer shall not be required to subsidize any deficits caused by an insufficiency in the budget, including but not limited to a failure by the Associations to approve any operating budget proposed by the Developer or to approve any special assessment proposed by the Developer. In this regard it is understood that the Developer, its successors and assigns shall not be liable to the Associations nor any member of the Associations for a lack of adequate service or for failure to properly maintain

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the Shared Amenities in the event the Associations fails to approve the budget proposed by the Developer or any special assessment.

i. In addition to the budget referenced herein, Developer may at its option provide to the Associations a separate budget for the costs and expenses set forth herein or may provide for such items of expense to be directly billed to the Associations if, as, and when necessary.

8. **Failure to Pay Assessments.** In the event an Association shall fail to pay the assessments established and assessed in accordance with the terms hereof, or shall fail to pay such other sums as may be due and payable in accordance with the terms of this Agreement, that Association shall be deemed to be in default and, with the exception of those rights relating to utilities, Developer shall be entitled to immediately revoke or suspend any and all rights granted to the Developer hereunder.

The Developer shall have a lien on each Unit in the Condominium and the Timeshare Resort for unpaid assessments and other charges, with interest thereon and for reasonable attorneys' fees incurred by the Developer incident to the collection of the assessment or other charge and the enforcement of any lien. The lien shall be effective from and after the recording of a Claim of Lien in the Public Records of Summit County, Utah. In the event some, but not all, members in either the Timeshare Association or Condominium Association fail to pay the required assessments, the Associations shall nevertheless remit the sums which have actually been collected pursuant to this Agreement. The Associations shall thereafter adopt as soon as practical, according to the provisions of the Timeshare Declaration and Condominium Declaration, special assessments against all members of the respective Associations to cover the shortfall. In addition to all other remedies, the Associations shall assign the liens against delinquent members and, in addition thereto, the Developer shall have direct liens which may be levied by the Developer against all members in the Associations. The Developer may enforce the Associations' lien rights in accordance with applicable law. The Developer may bring an action in its name to foreclose a lien for assessments or other charges in the manner a mortgage on real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments or charges without waiving any Claim of Lien. The remedies provided herein shall be non-exclusive and cumulative and shall not exclude any other remedy available to the Developer by this Agreement, law or otherwise. In addition to all other legal or equitable remedies, with the exception of those rights relating to utilities, the Developer may also suspend the use rights of a Timeshare or Condominium owner who is in default in the payment of his or her assessments. In this regard, upon request by Developer the Associations shall provide Developer with a report listing all Timeshare and/or Condominium owners who are delinquent in the payment of their assessments, unless otherwise prohibited under any applicable law or regulation.

9. **Maintenance of Color Scheme.** The exterior portions of the Developer Controlled Property shall be cleaned, repainted or retained by the Developer with substantially the same colors as initially used as often as is necessary to maintain same in a neat, orderly and attractive manner.

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The expense of maintaining the exterior portions of the Condominium Project and the Timeshare Project shall be borne by their respective Associations, and the expense of maintaining the exterior portions of the Developer Controlled Property shall be borne by the Developer.

10. **Developer's Right to Make Any Legal Use of Property.** It is understood and agreed that the Developer shall have the right in its sole discretion to make any legal use of the Developer Controlled Property including, but not limited to the right to further improve the Developer Controlled Property, including the expansion or construction of additional recreational facilities and further including the construction of additional buildings upon the Developer Controlled Property, which may include, but not necessarily be limited to condominiums, apartments, co-operatives, commercial buildings, hotel units, timeshares or any other structure authorized by applicable zoning requirements now existing or hereafter adopted; provided that no such use by Developer shall reduce or diminish the Shared Amenities (or any portion thereof) or materially alter the use rights granted to the Associations and the Timeshare and Condominium owners herein. In this regard it is further agreed that the Associations and each member of the Associations shall be deemed to have consented to such additional construction, improvements, or use and shall as a condition to the use rights and easements granted herein by the Developer in favor of the Associations and its members consent to any building permit application by the Developer or application for a change in zoning or any necessary variance deemed necessary by the Developer in furtherance of the terms hereof.

It is further understood and agreed that in the event the Developer further improves the Developer Controlled Property which may include the additional construction of units, neither the Associations nor any unit owner shall have a right to object nor shall have any cause of action against the Developer as a result of any visual obstruction caused by the construction of additional units.

It is further understood and agreed that during any period of construction, improvements or expansion of the Property, the Developer may temporarily suspend use of the Shared Amenities, and such use shall be restored upon the completion of any improvements constructed upon the property. During any period of temporary suspension, all fees due from the Associations to the Developer shall be likewise suspended except with respect to the payment of the Associations' pro-rata share of real estate taxes and insurance, and except to the extent that portions of the Easements and the Recreational and Other Commonly Used Facilities continue to be available for use by the Associations and their members.

11. **Insurance.** The Developer shall maintain all necessary and adequate insurance coverages, including liability, hazard, and fire insurance, on all portions of the Shared Amenities, and each Association and the Developer shall be named as insureds. The cost of such insurance shall be a shared expense pursuant to the provisions of paragraph 7. Notwithstanding anything contained herein to the contrary, the Timeshare Association shall maintain such insurance coverage for the Timeshare Project as is required by the Timeshare Declaration, and the

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Condominium Association shall maintain such insurance for the Condominium Project as is required by the Condominium Declaration. The Associations and the Developer may enter into an agreement to provide for a single insurance policy covering the Timeshare Project, the Condominium Project, and the Developer Controlled Property, with the cost of such insurance to be allocated by agreement of the parties.

In the event of casualty to the Shared Amenities, Developer or the owner of the Commercial Unit in the Condominium Project (if different than Developer) shall be obligated to restore/rebuild the Shared Amenities using the insurance proceeds received in connection therewith. In the event that the cost to restore/rebuild the Shared Amenities exceeds the insurance proceeds, the Associations shall be assessed for the shortfall in accordance with the provisions of Paragraph 7 hereof. The Developer shall not be obligated to restore/rebuild the Shared Amenities in the event that (1) both Associations elect, in accordance with their respective Declarations, not to restore/rebuild the Shared Amenities; or (2) the cost to restore/rebuild the Shared Amenities exceeds the insurance proceeds and the Associations fail to pay to Developer the shortfall. In no event shall Developer be obligated to advance any funds required to restore/rebuild the Shared Amenities, other than any portion allocated to the Developer under Section 7 hereof or to the Developer as a member of an Association.

12. **Indemnification.** Developer shall not be liable for any damage or injury to any persons or property whether it be the person or property of the Associations or Unit Owner, or any employees, agents, guests or invitees thereof, by reason of Associations occupancy and use of the Shared Amenities on any of the portions of the Developer Controlled Property or because of fire, flood, windstorm, acts of God or for any other reason. The Associations and each unit owner agrees to indemnify and save harmless the Developer from and against any and all loss, damage, claim, demand, liability or expense by reason of damage to person or property, which may arise or be claimed to have arisen as a result of the occupancy or use of the Shared Amenities on any of the portions of the Developer Controlled Property by the Associations or any unit owner or by reason thereof or in connection therewith, or in any way arising on account of any injury or damage caused to any person or property on or in Shared Amenities on any of the portions of the Developer Controlled Property from and against the claims of all persons claiming by, through or under Developer.

13. **Assignment.** It is understood that the Associations shall not assign its rights or obligations under this Agreement, or any part thereof, without the prior written consent of Developer.

Developer may assign its rights and/or obligations under this Agreement to any other party provided such party first agrees in writing to be bound by all terms and conditions set forth herein. Developer may establish a "Master Association", which shall be a Utah non-profit corporation, in order to assume management and control of the recreational facilities, pursuant to the terms and provisions of this Agreement. Notwithstanding the foregoing, the Developer shall be entitled to assign the rights which might otherwise inure to the members of the Condominium

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Association to any lender providing construction financing for construction of any of the Shared Amenities or Condominium Units as depicted on the Condominium Plat.

In lieu of the creation of a Master Association the Developer may designate a manager to perform management services with respect to the Easements and the Recreational and Other Commonly Used Facilities designated herein which management firm may be the same management firm employed by the Associations. The Developer and the Associations hereby consent and agree that the Associations and the Developer may employ the same management firm and that such management firm shall have an independent fiduciary duty to each party.

14. **Condemnation.** In the event the whole or any part of the Developer Controlled Property shall be taken or condemned for any public or quasipublic use or purpose, or is taken by private purchase in lieu of condemnation, the proceeds of any such condemnation of any portion of the Developer Controlled Property shall be payable to the owner of that portion of the Developer Controlled Property.

15. **Waiver of Warranty.** To the maximum extent lawful, Developer hereby disclaims any and all and each and every express or implied warranties, whether established by statutory, common, case law or otherwise, as to the design, construction, sound and/or odor transmission, existence and/or development of molds, mildew, toxins or fungi, furnishing and equipping of the Developer Controlled Property, including, without limitation, any implied warranties of habitability, fitness for a particular purpose or merchantability, compliance with plans, all warranties imposed by statute and all other express and implied warranties of any kind or character. The Associations represents and warrants to Developer that, in deciding to enter into this Easement Agreement, the Associations relied solely on its independent inspection of the Developer Controlled Property and has not received nor relied on any warranties and/or representations from Developer of any kind, other than as expressly provided herein. Without limiting the generality of the foregoing and to the maximum extent permitted by laws, warranties, if any, on appliances, water heaters, and HVAC systems furnished with or serving the Developer Controlled Property or the Condominium Project are manufacturers warranties only and the Associations agrees to be limited to the manufacturer's warranties for any relief pertaining to the breach of any express or implied warranty of merchantability or fitness.

As to any implied warranty which cannot be disclaimed entirely, all secondary, incidental and consequential damages are specifically excluded and disclaimed (claims for such secondary, incidental and consequential damages being clearly unavailable in the case of implied warranties which are disclaimed entirely above).

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For as long as Developer remains liable under any warranty, whether statutory, express or implied, for acts or omissions of Developer in the development, construction, sale, resale, leasing, financing and marketing of the Condominium, the Timeshare Resort or the Developer Controlled Property, then Developer and its contractors, agents and designees shall have the right, in Developer's sole discretion and from time to time and without requiring prior approval of the Associations and/or any Unit Owner and without requiring any consideration to be paid by the Developer to the Unit Owners and/or the Associations (provided, however, that absent an emergency situation, the Developer shall provide reasonable advance notice), to enter the Condominium Project and the Timeshare Project, including the Units, Common Areas and Facilities (as defined in Condominium and Timeshare Declarations) and Limited Common Areas and Facilities (as defined in the Condominium and Timeshare Declarations), for the purpose of inspecting, testing and surveying same to determine the need for repairs, improvements and/or replacements, and effecting same, so that Developer can fulfill any of its warranty obligations. The failure of the Associations or any Authorized User to grant, or to interfere with, such access shall alleviate the Developer from having to fulfill its warranty obligations, and the costs, expenses, liabilities or damages arising out of any unfulfilled Developer warranty will be the sole obligation and liability of the person or entity who or which impedes the Developer in any in Developer's activities described herein. **Nothing herein shall be deemed or construed as the Developer making or offering any warranty, all of which are disclaimed (except to the extent same may not be) as set forth herein.**

16. **Association as Representative.** Each Association will be the only representative authorized to act on behalf of its members and any other Authorized Users of their members, under this Agreement.

17. **Waiver.** Failure of Developer or any Association to declare any default immediately upon occurrence thereof or delay in taking any action in connection therewith shall not waive such default, but Developer or any Association shall have the right to declare any such default at any time and take such action as might be lawful or authorized thereunder, either in law or in equity.

18. **Notices.** In every instance where it shall be necessary or desirable for the Developer to serve any notice or demand upon Associations, it shall be sufficient:

a. To deliver or cause to be delivered to the Associations at its registered office a written printed copy thereof, in which event the notice or demand shall be deemed to have been served at the time the copy is so delivered; or

b. To send a written or printed copy thereof by United States certified mail, postage prepaid, addressed to the Associations at the Condominium in which event the notice or demand shall be deemed to have been served at the time the copy is deposited in the United States mail, postage prepaid.

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19. **Miscellaneous Provisions.**

a. **Subordination and Notice.** By execution hereof, Developer does hereby represent and warrant that at the time of the effective date of this Agreement, there are no mortgages on the Developer Controlled Property or any improvements or fixtures thereof other than as set forth on **Exhibit "C"** attached hereto. Developer, on behalf of itself and its successors and assigns in interest to the Developer Controlled Property, agrees that the rights of the Associations and the Authorized Users to access, use and enjoy the rights set forth in this Agreement, including, but not limited to, all easement rights ("**Rights**"), shall not be disturbed by Developer whether by ownership interest, lien interest (including any mortgage) or otherwise ("**Interests**"). All lien creditors of Developer, including but not limited to any mortgagees having a lien on the Developer Controlled Property ("**Lender**"), who claim any right, title or interest or any other claims to the Developer Controlled Property arising subsequent to the date of this Agreement, all parties of any nature whatsoever claiming any interest in the Developer Controlled Property encumbered by the easements set forth herein, and all successors and assigns of Developer are hereby given notice of the existence of the Rights, and all of their rights and claims with respect to the Developer Controlled Property encumbered by the easements set forth herein.

b. **Lender's Rights.** Notwithstanding anything to the contrary in this Agreement, Developer may encumber its interest in and to the Developer Controlled Property and such Lender shall have the following rights and privileges: (i) Lender may demand and obtain a collateral assignment in and to all or any portion of the rights of Developer under this Agreement as security for the loan and Lender and its successors and assigns shall be entitled to assign their respective rights to any successor or assignee without any of the parties' prior consent; and (ii) the Associations (on behalf of themselves and each applicable Authorized User) must promptly notify Lender of any default of any of Developer's obligations arising with regard to this Agreement and of any act or omission of Developer which would give the other party the right to exercise any of its rights or remedies under this Agreement. In the event of a default by Developer which would give any other party the right, immediately or after the lapse of a period of time, to exercise any of its rights or remedies under this Agreement including, without limitation, its right, if any, to assert a lien for the payment of obligations due under this Agreement, such party shall not exercise such right (i) until it has given written notice of such default, act or omission to Lender; and (ii) unless Lender has failed (x) within thirty (30) days after Lender receives such notice, to cure or remedy provided however, if such default, act or omission shall be one which is not reasonably capable of being remedied by Lender within such thirty (30) day period, such party shall not exercise any such rights if Lender has commenced a cure during such thirty (30) day period and is diligently pursuing such cure. If Lender cannot reasonably remedy a default of Developer until after Lender obtains possession of any portion of the Developer Controlled Property, the affected party shall not exercise its remedies arising from such default until a reasonable time after Lender secures possession of such portion of the Developer Controlled Property. Notwithstanding the foregoing, Lender shall have no obligation hereunder to remedy such default.

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c. Non-disturbance. Developer and all Lenders acquiring any interest in the Resort will not use or cause the property encumbered by this Agreement, including, but not limited to, the Developer Controlled Property, to be used in a manner which would prevent or disturb the Authorized Users from using and enjoying the benefits under the terms of this Agreement in a manner contemplated by this Agreement. If Lender (or its nominee or designee) shall succeed to the rights of Developer under this Agreement through a foreclosure action, delivery of a deed (or assignment of this Agreement or any rights herein) in lieu of foreclosure or otherwise, or another person purchases the rights of Developer under this Agreement upon or following foreclosure of Lender's mortgage (or delivery of a deed or assignment of this Agreement in lieu of foreclosure), the owners of any Units in the Condominium Project or Timeshare Resort shall recognize Lender (or its nominee or designee) or such purchaser (Lender, its nominees and designees, and such purchaser, each being a "**Successor-Developer**"), as Developer under this Agreement and shall promptly execute and deliver any instrument that Successor-Developer may reasonably request to evidence such recognition as Developer's successor. Except that Successor-Developer shall not:

(i) be liable for any previous act or omission of Developer under this Agreement unless Developer and Lender were timely given notice of such act or omission and opportunity to cure in accordance with this Agreement;

(ii) be subject to any off-set, defense or counterclaim which shall have theretofore accrued against Developer; and

(iii) be bound by any modification of this Agreement unless such modification shall have been expressly approved in writing by Lender.

d. Enforcement. Notwithstanding anything to the contrary in this Agreement, this Agreement shall not be construed as precluding the enforcement (including, without limitation, foreclosure) of any lien or security interest created by any owner of a Unit in the Condominium Project or Timeshare Resort, in the purchase contract, mortgage or otherwise, which lien or security interest encumbers a Unit. Anything herein to the contrary notwithstanding, in the event that Lender or a Successor-Developer shall acquire title to Developer's interests under this Agreement, Lender and such Successor Developer shall have no obligation, nor incur any liability, beyond Lender's or such Successor Developer's then interest, if any, in the Developer Controlled Property (or any portion thereof) and the parties shall look exclusively to such interest, if any, of Lender or such Successor Developer in the Developer Controlled Property for the payment and discharge of any obligations imposed upon Lender or such Successor Developer hereunder, and Lender and such Successor Developer are hereby released and relieved of any other liability hereunder and under this Agreement. With respect to any money judgment which may be obtained or secured by the Associations (on behalf of themselves or the Authorized Users) against Lender or such Successor Developer, the Associations shall look solely to the estate or interest owned by Lender or such Successor Developer in the Developer Controlled Property, and the Associations will not collect or attempt to collect any such judgment out of any other assets of Lender or such Successor Developer.

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Neither Lender nor any Successor Developer shall become liable under this Agreement unless and until such time as they respectively become, and then only for so long as they respectively remain, the owner of any portion of the Developer Controlled Property.

e. Recognition of Rights. So long as Developer or any Successor Developer has any interest in the property which is encumbered by this Agreement, including the Developer Controlled Property, and provided this Agreement is in effect, Developer or any Successor Developer will fully honor all the rights of the Authorized Users, including the Associations, in and to such property and will comply with all other requirements of Utah law and rules promulgated thereunder with respect to the property encumbered by this Agreement, subject to any remedies available due to a default of an Authorized User of its obligations under this Agreement, as amended from time to time.

f. Joinder and Consent. All mortgagees and holders of Interests in and to the property encumbered by this Agreement shall execute a Joinder and Consent to all terms and provisions hereof.

20. Miscellaneous Provisions.

a. The terms and provisions set forth in this Agreement shall be deemed to be covenants running with the land, and shall bind all of the parties hereto, as well as their successors in interest, their heirs, administrators and assigns.

b. This Agreement shall be governed by and shall be interpreted in accordance with the laws of the State of Utah.

c. All disputes arising out of or under the terms and provisions of this Agreement shall be resolved by binding arbitration in accordance with the rules of the American Arbitration Association.

d. In the event of any litigation arising out of any of the terms or provisions of this Agreement, the prevailing party shall be entitled to recover all costs and reasonable attorneys fees, including all costs and attorneys fees incurred on any appeal.

e. This Agreement represents the entire agreement between the parties and may only be amended or modified by another Agreement signed by the party intended to be bound. No amendment of this Agreement shall be enforceable unless such amendment has been consented to by Lender in writing.

f. **ANY CONTROVERSY ARISING OUT OF OR RELATING TO THIS DECLARATION WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES AND, THEREFORE, THE DEVELOPER AND EACH UNIT OWNER AGREE THAT ANY LAWSUIT ARISING OUT OF ANY SUCH CONTROVERSY SHALL BE**

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TRIED BY A JUDGE SITTING WITHOUT A JURY, AND UNIT OWNER HEREBY KNOWINGLY AND VOLUNTARILY WAIVES TRIAL BY JURY IN ANY SUCH PROCEEDING.

21. **Term.** This Agreement shall be effective upon its recordation in the Public Records of Summit County, Utah, and shall continue in full force and effect and shall run concurrently with the existence of the Condominium and the Timeshare Resort and shall terminate upon the later termination of the Condominium or the Timeshare Resort as provided pursuant to their Declarations.

22. **Covenant Running with the Land.** The rights, easements, obligations and agreements set forth herein shall be a covenant running with the properties described herein upon the Associations and its members and the Developers and their respective successors, assigns, licensees, grantees and designees and such rights, easements, agreements and maintenance obligation shall be enforceable in law or equity.

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STATE OF Florida)
COUNTY OF Orange) SS.

The foregoing instrument was acknowledged before me this 1st day of August, 2007
by David Asch, as President of WESTGATE PARK CITY RESORT & SPA
OWNERS ASSOCIATION, INC., a Utah non-profit corporation, on behalf of the corporation. He is
personally known to me or has produced _____ as a type of identification.

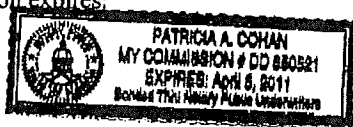


My commis

Patricia A. Cohen
Print Name: _____
Notary Public, State of: _____
Serial Number, if any: _____

STATE OF FLORIDA)
COUNTY OF Orange) SS.

The foregoing instrument was acknowledged before me this 1st day of August, 2007
by David Asch, as President of WESTGATE RESORTS, INC., a Florida
corporation, as General Partner of WESTGATE RESORTS, LTD., a Florida limited partnership, on behalf
of the partnership. He is personally known to me or has produced _____ as a type
of identification.



My commission expires:

Patricia A. Cohen
Print Name: _____
Notary Public, State of: _____
Serial Number, if any: _____

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EXHIBIT "A"

MASTER PARCEL

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Beginning at the Southeast Corner of Section 36, Township 1 South, Range 3 East, Salt Lake Base and Meridian, a found brass cap; thence North 89°59'43" West a distance of 1328.95 feet along the South Line of said Section 36, (Basis of Bearing being North 89°59'43" West along the South Line of said Section 36 between the Southeast Corner and South Quarter Corner of said Section 36); thence leaving said Section Line North a distance of 129.02 feet to a point on the west side of the designed location of the top back of curb of the proposed High Mountain Road, said point being the true Point of Beginning; thence leaving said top back of curb North 47°29'38" West a distance of 235.63 feet; thence North 74°29'38" West a distance of 113.25 feet; thence North 15°30'22" East a distance of 1.50 feet; thence North 74°29'38" West a distance of 30.50 feet; thence South 80°30'22" West a distance of 6.00 feet; thence South 50°30'22" West a distance of 11.75 feet; thence North 74°29'38" West a distance of 5.00 feet; thence North 29°29'38" West a distance of 20.00 feet; thence North 74°29'38" West a distance of 10.50 feet; thence North 29°29'38" West a distance of 13.00 feet; thence North 15°30'22" East a distance of 17.77 feet; thence North 29°29'38" West a distance of 258.66 feet; thence North 60°30'24" East a distance of 109.66 feet; thence North 29°29'38" West a distance of 120.00 feet; thence North 60°30'24" East a distance of 104.67 feet; thence North 29°29'38" West a distance of 15.00 feet; thence North 60°30'24" East a distance of 101.23 feet to the southwest side of the designed location of the top back of curb of the proposed Grand Summit Drive; thence continuing along said top back of curb the following eight courses: 1) South 31°03'19" East a distance of 8.51 feet to a point of curve to the left having a radius of 60.00 feet and a central angle of 58°55'54"; 2) thence southeasterly along the arc a distance of 61.71 feet; 3) South 89°59'12" East a distance of 2.24 feet to a point of curve to the right having a radius of 22.50 feet and a central angle of 90°00'00"; 4) thence southeasterly along the arc a distance of 35.34 feet; 5) South 00°00'47" West a distance of 71.24 feet to a point of curve to the left having a radius of 115.00 feet and a central angle of 81°35'31"; 6) thence southeasterly along the arc a distance of 163.77 feet; 7) South 81°34'44" East a distance of 18.12 feet to a point of curve to the right having a radius of 22.50 feet and a central angle of 27°01'36"; 8) thence easterly along the arc a distance of 10.61 feet to a point on the proposed The Canyons Resort Drive Right of Way and point of curve of a non tangent curve to the left, of which the radius point lies South 85°56'44" East a radial distance of 224.00 feet; thence southerly along the arc of said curve and said right of way, through a central angle of 51°34'32" a distance of 201.64 feet; thence continuing along said Right of Way South 47°31'16" East a distance of 202.65 feet to the point of curve of a non tangent curve to the right, of which the radius point lies North 84°23'02" West a radial distance of 25.00 feet; said point being on the west side of the said top back of curb of the said High Mountain Road; thence continuing southwesterly along said top back of curb and arc, through a central angle of 36°51'46" a distance of 16.08 feet; thence continuing along said top back of curb South 42°28'44" West a distance of 217.19 feet to the Point of Beginning.

Said property also known as Parcel 1, Westgate At The Canyons Final Subdivision Plat, according to the official plat thereof on file and of record in the Summit County Records Office.

EXHIBIT "B"

DEVELOPER CONTROLLED PROPERTY

X:\Real\43035\197847\JA333546.DOC
K:\Pat\canyons\park city condo\shared use agmt\13 shared use agmt 08.01.07.DOC

(JA333546;1)

Shared Use Agreement
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Beginning at the Southeast Corner of Section 36, Township 1 South, Range 3 East, Salt Lake Base and Meridian, a found brass cap; thence North 89°59'43" West a distance of 1328.95 feet along the South Line of said Section 36, (Basis of Bearing being North 89°59'43" West along the South Line of said Section 36 between the Southeast Corner and South Quarter Corner of said Section 36); thence leaving said Section Line North a distance of 129.02 feet to a point on the west side of the designed location of the top back of curb of the proposed High Mountain Road, said point being the true Point of Beginning; thence leaving said top back of curb North 47°29'38" West a distance of 235.63 feet; thence North 74°29'38" West a distance of 113.25 feet; thence North 15°30'22" East a distance of 1.50 feet; thence North 74°29'38" West a distance of 30.50 feet; thence South 80°30'22" West a distance of 6.00 feet; thence South 50°30'22" West a distance of 11.75 feet; thence North 74°29'38" West a distance of 5.00 feet; thence North 29°29'38" West a distance of 20.00 feet; thence North 74°29'38" West a distance of 10.50 feet; thence North 29°29'38" West a distance of 18.00 feet; thence North 15°30'22" East a distance of 17.77 feet; thence North 29°29'38" West a distance of 258.66 feet; thence North 60°30'24" East a distance of 109.66 feet; thence North 29°29'38" West a distance of 120.00 feet; thence North 60°30'24" East a distance of 104.67 feet; thence North 29°29'38" West a distance of 15.00 feet; thence North 60°30'24" East a distance of 101.23 feet to the southwest side of the designed location of the top back of curb of the proposed Grand Summit Drive; thence continuing along said top back of curb the following eight courses: 1) South 31°03'19" East a distance of 8.51 feet to a point of curve to the left having a radius of 60.00 feet and a central angle of 58°55'54"; 2) thence southeasterly along the arc a distance of 61.71 feet; 3) South 89°59'12" East a distance of 2.24 feet to a point of curve to the right having a radius of 22.50 feet and a central angle of 90°00'00"; 4) thence southeasterly along the arc a distance of 35.34 feet; 5) South 00°00'47" West a distance of 71.24 feet to a point of curve to the left having a radius of 115.00 feet and a central angle of 81°35'31"; 6) thence southeasterly along the arc a distance of 163.77 feet; 7) South 81°34'44" East a distance of 18.12 feet to a point of curve to the right having a radius of 22.50 feet and a central angle of 27°01'36"; 8) thence easterly along the arc a distance of 10.61 feet to a point on the proposed The Canyons Resort Drive Right of Way and point of curve of a non tangent curve to the left, of which the radius point lies South 85°56'44" East a radial distance of 224.00 feet; thence southerly along the arc of said curve and said right of way, through a central angle of 51°34'32" a distance of 201.64 feet; thence continuing along said Right of Way South 47°31'16" East a distance of 202.65 feet to the point of curve of a non tangent curve to the right, of which the radius point lies North 84°23'02" West a radial distance of 25.00 feet; said point being on the west side of the said top back of curb of the said High Mountain Road; thence continuing southwesterly along said top back of curb and arc, through a central angle of 36°51'46" a distance of 16.08 feet; thence continuing along said top back of curb South 42°28'44" West a distance of 217.19 feet to the Point of Beginning.

Said property also known as Parcel 1, Westgate At The Canyons Final Subdivision Plat, according to the official plat thereof on file and of record in the Summit County Recorders Office.

LESS AND EXCEPTING FROM THE ABOVE LEGAL DESCRIPTION (BUILDING 10):

Commencing at the Southeast Corner of Section 36, Township 1 South, Range 3 East, Salt Lake Base & Meridian, a found brass cap, (basis of bearing being North 89°59'43" West 2657.10 feet between the said Southeast Corner of Section 36 and the South Quarter Corner of said Section 36, a found brass cap); thence along the South Line of said Section 36, North 89°59'43" West, a distance of 1,691.55 feet; thence leaving said Section Line, North, distance of 390.48 feet to the Point of Beginning; thence North 29°30'00" West, a distance of 238.67 feet; thence North 60°30'00" East, a distance of 77.67 feet; thence South 29°30'00" East, a distance of 123.33 feet; thence North 60°30'00" East, a distance of 7.67 feet; thence South 29°30'00" East, a distance of 40.00 feet; thence South 60°30'00" West, a distance of 7.67 feet; thence South 29°30'00" East, a distance of 75.33 feet; thence South 60°30'33" West, a distance of 77.67 feet to the Point of Beginning.

ALSO LESS AND EXCEPTING (BUILDING 11):

Commencing at the Southeast Corner of Section 36, Township 1 South, Range 3 East, Salt Lake Base & Meridian, a found brass cap, (basis of bearing being North 89°59'43" West 2667.10 feet between the said Southeast Corner of Section 36 and the South Quarter Corner of said Section 36, a found brass cap); thence North 89°59'43" West, a distance of 1,571.00 feet along the South Line of said Section 36; thence leaving said Section Line, North, a distance of 589.67 feet to the Point of Beginning; thence North 29°30'00" West, a distance of 166.00 feet; thence South 60°30'00" West, a distance of 94.00 feet; thence North 29°30'00" West, a distance of 77.67 feet; thence North 60°30'00" East, a distance of 131.67 feet; thence South 29°30'00" East, a distance of 15.00 feet; thence North 60°30'00" East, a distance of 30.00 feet; thence South 29°30'00" East, a distance of 228.67 feet; thence South 60°30'00" West, a distance of 67.67 feet to the Point of Beginning.

Bison Lodge

Beginning at a point N89°59'43"W 1347.95 feet along the Section Line and North 147.79 feet from the Southeast Corner of Section 36, Township 1 South, Range 3 East, Salt Lake Base and Meridian; and running thence N47°29'38"W 190.67 feet; thence N42°30'23"E 83.00 feet; thence S47°29'45"E 109.00 feet; thence N42°29'49"E 121.02 feet; thence S47°29'37"E 81.70 feet; thence S42°30'37"W 204.01 feet to the point of beginning.

Moose Lodge

Beginning at a point N89°59'43"W 1488.51 feet along the Section Line and North 276.60 feet from the Southeast Corner of Section 36, Township 1 South, Range 3 East, Salt Lake Base and Meridian; and running thence N47°29'38"W 20.76 feet; thence N74°29'38"W 112.60 feet; thence N15°40'46"E 82.67 feet; thence S74°29'44"E 91.72 feet; thence N15°30'22"E 121.33 feet; thence S74°29'33"E 80.00 feet; thence S15°30'30"W 141.10 feet; thence N47°29'45"W 3.58 feet; thence S42°30'23"W 83.00 feet to the point of beginning.

EXHIBIT “1”
TO SECOND AMENDMENT TO SHARED USE
AGREEMENT

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) executed as of the 27th day of October, 2020 by and between, **THE LODGE AT WESTGATE PARK CITY RESORT & SPA OWNERS’ ASSOCIATION, INC.** (the “Association”) and **WESTGATE RESORTS, LTD., a Florida limited partnership** (hereinafter “Westgate”) (the Association and Westgate are referred to collectively herein as “Parties”).

RECITALS:

A. The Lodge at Westgate Park City Resort and Spa (the “Project” or “Building 19”) is a mixed-use, condominium resort located in Park City, Utah comprised of 201 condominium units (each a “Unit”). Westgate is the developer of the Project. The Association is the condominium association for the Project.

B. The Declaration of Condominium creating the Project was filed on June 29, 2007 at Book 1874, Page 0479 as part of the public records of Summit County, Utah (the “Declaration”). Under the Declaration, Westgate is the owner of the “Commercial Unit.”

C. The Project shares certain amenities (the “Shared Amenities” with an adjacent timeshare association (the “Timeshare Association”) pursuant to that certain Shared Use Agreement dated August 6, 2007 and recorded at Book 1886, Page 0091 as part of the public records of Summit County, Utah (the “Shared Use Agreement”). Under the Shared Use Agreement, the Association and the Timeshare Association split the cost of the Shared Amenities with the Association paying sixty-three percent (63%) of the costs and the Timeshare Association paying thirty-seven percent (37%) of the costs.

D. In 2013, turnover occurred at the Project and Unit owners assumed seats on the board of the Association. The Association is governed by those certain Bylaws of the Lodge at Westgate Park City Resort & Spa Condominium Association, Inc. (the “Bylaws”).

E. Various disputes arose among the Parties related to the annual budget for the Project which resulted in that that certain litigation styled *Lodge at Westgate Park City Resort and Spa Condominium Association, Inc. v. Westgate Resorts, Ltd., et al*, Case No. 130500585 (the “Lawsuit”).

F. The Lawsuit dealt with claims related to the structure of the Project, ownership over the Commercial Unit, and the enforceability of a document known as the 2009 budget methodology agreement (the “2009 Budget Methodology”), among other things. As part of the final judgment in the Lawsuit, the Court enforced the 2009 Budget Methodology as a binding agreement that superseded the Declaration, Bylaws and Shared Use Agreement to the extent that a conflict exists between them (the “Final Judgment”).

G. Both parties filed an appeal of the Final Judgment which resulted in the affirmation of the District Court’s Final Judgment (the “Appeal”). The Appeal affirmed the enforceability of the 2009 Budget Methodology, and the ruling that the amenity use fee set forth on Exhibit “H” to the 2009 Budget Methodology (the “Amenity Use Fee”) is not capped. The Parties are in

disagreement as to the Parties' responsibilities in carrying out the Final Judgment, including the practical meaning of the 2009 Budget Methodology, the Association's liability for Amenity Use Fees and Westgate's obligations related to the plat.

H. Subsequent to the Appeal, Westgate made monetary demands for the Amenity Use Fee for 2019 and prior years and the Association has made demands for Westgate to replat the Project, among other things.

I. After various discussions, the Parties desire: (i) to amend the Declaration to include the 2009 Budget Methodology; (ii) to clarify the Association's responsibility for the Amenity Use Fee; (iii) to clarify Westgate's obligation to replat Building 19; (iv) to require that the Association budget for the entire cost of the amenities located within Building 19 at the Project; (v) to change the Association's responsibility for Amenity Use Fees under the Shared Use Agreement; (vi) to provide for the ability of the Association to charge an owner usage fee on all Units not owned by Westgate; and (vii) to amend Article 3.1 of the Declaration to permit Unit owners to use the Commercial Unit for third party vendors to provide services to their Units and to establish standards and restrictions under which third party vendors shall be allowed to enter the Commercial Unit.

J. In lieu of further litigation, the Parties desire to enter into this Agreement, which is intended to be a full and complete settlement of all claims between the Parties, including but not limited to, those claims asserted in the Lawsuit, the Appeal and arising out of the 2009 Budget Methodology.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Westgate and the Association agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein.
2. Amenity Use Fee. The Association shall pay Westgate for the Amenity Use Fee as follows.
 - a. The Amenity Use Fee for 2019 and Prior Years. The Association shall pay Eight Hundred Thousand and 00/100 Dollars (\$800,000.00) to Westgate in full satisfaction and settlement for any claimed shortfall in the Amenity Use Fees for 2019 and all prior years (the "Settlement Payment"). The Settlement Payment shall be made in two installments, with \$400,000 to be paid within 30 days after the approval of this agreement as provided in paragraph 13 below and \$400,000 to be paid by year end 2021. Westgate shall not be responsible for any portion of the Settlement Payment as a Unit owner at the Project, except to the extent of regular assessments made by the Association prior to the effective date of this Settlement Agreement.
 - b. The Amenity Use Fee for 2020. The Amenity Use Fee for 2020 will be \$500,455, in consideration of the Association writing off its claim against Westgate for underpaid assessments for 2019 and Prior years.

c. The 2021 Base Amenity Budget. The 2021 Amenity Use Fee Budget (“the 2021 Base Amenity Budget”), attached hereto marked Exhibit “A,” will establish all of the budget categories and costs included in the Amenity Use Fee. The Amenity Use Fee for future years will be increased annually over the 2021 Base Amenity Budget in the amount of 55% of Westgate’s cost increases in the 2021 Base Budget categories capped by the annual PayScale increases for labor costs and up to 5% for material costs, subject to the carve outs all as set forth in detail in paragraph 3 below.

d. The 2021 Amenity Use Fee. Due to uncertainties resulting from the COVID-19 pandemic and the resulting decrease in occupancy at the Project experienced in 2020, the parties anticipate that occupancy levels may continue to be affected in 2021. Consequently, the Association’s 2021 Amenity Use Fee will be no more than \$901,238 and will be reduced and paid based on actual occupancy in 2021 compared to occupancy during the period from March 1, 2019 to February 28, 2020, according to the occupancy percentage reductions as shown in the 2021 Base Amenity Budget. Occupancy adjustments for 2021 shall be reviewed by the parties at mid-year and year end to balance the Amenity Use Fee to correspond with the percentage of actual occupancy. There shall be a cap on the occupancy reduction of 30% for everything except transportation which shall be capped at 20% as set forth in the 2021 Base Amenity Budget. The parties shall follow the 2021 Base Amenity Budget to determine the agreed upon decreases based upon occupancy. For clarification purposes, occupancy reduction does not correlate with cost reduction, meaning a 20% reduction in occupancy does not provide a 20% reduction in cost. Occupancy will be calculated by a fraction, the numerator of which is the total number of nights that residential units in Building 19 are actually occupied and the denominator of which is 70,146 nights as provided in Exhibit “B” attached hereto; provided, however, that the Skier Services category of the Base Amenity Budget will be calculated using the percentage occupancy for the first three months of the calendar year. In the event that actual occupancy in 2021 drops below 30%, the parties shall meet in good faith to negotiate a revised Amenity Budget. In the event the parties fail to agree to a revised Amenity Budget, the parties shall follow the procedures as set forth in section 11 of this Agreement

e. The 2022 and 2023 Amenity Use Fee. Although budget increases will be calculated annually, the parties agree that the Association’s Amenity Use Fee for 2022 and 2023 will be capped as follows: \$925,000 for the year 2022; and \$950,000 for the year 2023.

f. Amenity Use Fee for 2024 and Subsequent Years. For the year 2024 and all subsequent years, the attached 2021 Base Amenity Budget shall be the base year budget for determining any increases in the Amenity Use Fee. Annual increases in the Amenity Use Fee shall be as set forth below in paragraph 3.

3. The 2009 Budget Methodology. The Parties shall amend the governing documents in accordance with paragraph 7 below to incorporate the 2009 Budget Methodology and implement the agreed changes to the Shared Use Agreement. The amendment to the Declaration shall

include a copy of the 2021 Base Amenity Budget, together with a copy of the 2009 Budget Methodology (Trial Exhibit 147), attached hereto marked Exhibit "C.". The 2009 Budget Methodology as affirmed by the Appeal shall apply to all future budgets with the following exceptions and/or clarifications, which shall also be stated in the amendments to the governing documents:

- a. Taxes. Westgate shall not be required to file an amended plat for the Project to eliminate any double taxation as required by Exhibit F of the 2009 Budget Methodology and the Final Judgment. The governing documents will be amended to provide that Westgate shall be solely responsible for all taxes assessed upon the Commercial Unit.
- b. Amenity Use Fee. The 2009 Budget Methodology dictates the year over year increases in each budget category with the exception of the Amenity Use Fee. The Amenity Use Fee for 2021 shall be no more than \$901,238 as indicated by the 2021 Base Amenity Budget, which shall be inclusive of a 10% management fee payable to Westgate. The Amenity Use Fee will be increased over the 2021 Base Amenity Budget in the amount of 55% of Westgate's cost increases in the 2021 Base Amenity Budget categories, subject to the following limitations and carve outs. Annual increases in the 2021 Base Amenity Budget categories for the Amenity Use Fee over the 2021 Base Amenity Budget and then from year over year, shall be commercially reasonable based on the actual increase in the cost of labor and materials in said categories and will be limited as follows: (i) labor increases shall be limited to the actual percentage increase from the prior year as determined by the statistics issued by PayScale at PayScale.com for competitive properties as summarized on Exhibit "D" attached hereto; (ii) material cost increases shall be limited to no more than five percent (5%) from the prior year, unless there are unforeseen costs outside the reasonable control of the Parties including, but not limited to, technology changes, mechanical issues, labor strikes, wars, insurrections, hostilities, acts of terrorism, or acts of God, in which case there shall be no limitation on the increase in costs affected by such unforeseen circumstances; and (iii) employee headcount increases or any reduction in services will require mutual approval from the Association and Westgate acting in a good faith, commercially reasonable manner. In the event operations of the Project are substantially impacted by unforeseen circumstances outside the reasonable control of the parties such as labor strikes, wars, insurrections, hostilities, acts of terrorism, acts of God, pandemic (including the continuation of the COVID-19 if actual occupancy is below 30% calculated as set forth in paragraph 2.d. above) or acts or omissions of any governmental authority (collectively called Force Majeure), the parties shall meet in good faith to negotiate a revised Amenity Budget. In the event the parties fail to agree to a revised Amenity Budget, the parties shall follow the procedures as set forth in section 11 of this Agreement. The Parties agree to act in good faith to resolve any disagreements regarding proposed increases, to cooperate to minimize costs and to submit any disputes to binding arbitration under the procedure set forth in section 11 of this Agreement. Upon request of the Association, Westgate will solicit competitive bids from at least two independent contractors or suppliers for any specific services or supplies if the Association questions the proposed costs and the Parties will agree to use the contractor or supplier providing the lowest responsible bid.

- c. Services Included in the Amenity Use Fee. The Amenity Use Fee shall be used to pay and shall be in satisfaction of the Association's share of the Amenity Use Fee under the Shared Use Agreement. The Shared Amenities shall include all those listed in Exhibit H to the 2009 Budget Methodology Agreement including the Parking Garage, the Lobby, Library/Lounge, Indoor/Outdoor Pool, Outdoor Hot tubs (2); Tennis Court, Basketball Court, Playground, Outdoor grill Area, Skier Services and Ski Lockers (including skier valet), Common Walkways, Landscaping, Concierge Services, Bell Services, Transportation Services, Security and Internet. The parties may mutually agree to add, subtract or alter the Shared Amenities, in which case the parties shall adjust the Amenity Use Fee accordingly to address any resulting increase or decrease in expenses. The Association shall pay for the entire cost of all pools and amenities located in Building 19, including the Adult Pool and hot tub and the Outdoor Pool with hot tub, and these costs shall not be part of the Amenity Use Fee.
- d. Service Levels. Service levels provided by Westgate shall remain the same as provided in 2019, which will be reflected in the 2021 Base Amenity Budget. However, (i) Westgate may adjust the hours of services and number of shuttles available to reduce transportation costs; and (ii) Westgate may adjust the number of hours of operation for concierge and skier services based upon occupancy levels and staffing needs. All changes in service levels shall be reviewed annually and jointly approved by the Association acting in a good faith, commercially reasonable manner, and Westgate prior to implementation. In the event of any reduction in service levels, the Association will receive the benefit of any proportionate cost savings.
- e. Reserves. The Association's responsibility for reserves is established by the reserves study referenced in Exhibit K to the 2009 Budget Methodology and on file with the Association, including the life, cost and percentage of each item to be shared with the Timeshare HOA. The Association shall not have the obligation to fund any reserves other than those specifically identified in said reserves study. Reserve funds will not be used for routine maintenance or moved to the Operations Account. Use of the reserve funds requires the unanimous signoff from Westgate and the Association's Board. Replacement of items identified in the reserves study will be addressed as provided in said study. The creation of reserves for any items not identified in the reserves study must be mutually agreed upon by the Association and Westgate to be funded in a separate account.
- f. Parking Garage. Under the 2009 Budget Methodology, the Association is responsible for the costs of repair and maintenance of the Building 19 parking garage and reserves have been established for that purpose. Beginning in 2023 the Association agrees to pay \$50,000 annually from its Operating Budget for "Maintenance/Ground – Salaries" to Westgate as its share of the cost of the repair and maintenance of the Bear/Elk parking garage, subject to the Future Increase Clause in the 2009 Budget Methodology.
- g. Commercial Unit Designated Cost. The Commercial Unit Designated Cost shall be calculated as provided in Exhibit L to the 2009 Budget Methodology, as 10.3% of the

following budget categories: Reserves, Utilities, Insurance plus \$0.40 per square foot of 15,205 square feet for CVMA (formerly RVMA) fee.

- h. Association's Operating Budget. The Association's Operating Budget for 2020 is attached hereto market Exhibit "E" with explanatory notes indicating the application of the 2009 Budget Methodology Agreement. Additional manpower and supplies expenses have been added to the Association's Operating Budget since 2009 based on the need for additional services or a headcount increase mutually agreed upon by the Association and Westgate as they will be in the future.

4. Third Party Vendors. The Parties shall amend the Declaration in accordance with paragraph 7 below to provide that third party vendors, as invitees of unit owners, shall have a right of access to the units through the Commercial Unit subject to the following policies and procedures: all third party vendors providing services to units in Building 19 must check in at the front desk, show proper ID, show proof of \$1 million liability insurance, and check out and return keys when leaving; all cleaning of Units shall be performed by Westgate or an approved third party vendor; at any given time, Westgate and the Association shall jointly designate at least two (2) housekeeping companies that shall be an approved vendor for the Project; and to qualify as an approved vendor to clean units, companies must also agree to have employees attend Westgate orientations at no cost, wear proper uniforms approved by Westgate and the Association, and will provide background checks for employees working at the Project. Any third-party vendors performing major renovations or repairs to mechanical systems, plumbing or electrical systems at the Project must be pre-approved by Westgate.

5. Owner Usage Fee. The Parties shall amend the Bylaws in accordance with paragraph 7 below to provide for the Association's implementation of an owner usage fee starting in 2020 which shall be assessed to Unit owners for each night the owner's Unit is occupied (the "Owner Usage Fee") and billed on a quarterly basis. Westgate shall provide the Association with a nightly occupancy report within fifteen (15) days after the end of each quarter so that the Association may determine the amount of the Owner Usage Fee. The Owner Usage Fee shall not be assessed against any Units owned by Westgate, but Westgate shall be billed and shall pay to the Association Westgate's allocated percentage of the total amount budgeted by the Association for revenue expected from the Owner Usage Fee, which allocated percentage shall be based on the total number of Westgate Units plus 16 timeshare units (currently 33.25%). In the event the Owner Usage Fee does not cover the difference between the Owner Usage Fees actually collected and the amount budgeted by the Association for revenue expected from the Owner Usage Fees, the Association shall be responsible for any shortfall and shall not assess Westgate as a Unit owner to cover the shortfall.

6. Shared Use Agreement. The Parties shall amend the Shared Use Agreement in accordance with paragraph 7 below to reflect the Amenity Fee obligations and to reflect the amended arbitration provision set forth in paragraph 11.

7. Amendments to Governing Documents. In order to fully effectuate the terms of this Agreement, the Parties recognize that the governing documents, including specifically the Declaration, the Shared Use Agreement, and the Bylaws shall be amended. The proposed

amendments are attached hereto as composite Exhibit "F". Notwithstanding anything contained herein to the contrary, neither the Association nor Westgate shall without the consent of the other seek to amend the governing documents in any manner inconsistent with the terms and provisions of this Agreement. The Parties shall work together in good faith to amend the governing documents to implement the terms of this settlement Agreement and shall encourage the Unit owners to support any such amendments. If there are any conflicts between the terms stated herein and the terms of the governing documents, the terms of this Agreement shall control.

8. Release by the Association. The Association hereby releases, acquits, and forever discharges Westgate and any other related and affiliated entities and their respective agents, attorneys, representatives, successors, and assigns (the "Released Entities"), from the beginning of time to the date of this Agreement, for certain good and valuable consideration, from all of those certain claims, counter-claims, set-offs, causes of action, lawsuits, demands, costs, damages, expenses, loss of services, interest or the like of whatsoever kind or nature, whether arising in law or in equity, which the Association may have had, may now have, or may hereafter have against the Released Entities and any other related and affiliated entities and their respective agents, attorneys, representatives, successors, and assigns from the beginning of time to the date of this Agreement, including but not limited to claims arising out of the 2009 Budget Methodology and the Final Judgment; provided, however, that Westgate is not released from its obligation to pay all of its assessments due to the Association for the 2020 calendar year .

9. Release by Westgate. Westgate hereby releases, acquits, and forever discharges the Association, and its board members and any of their agents, attorneys, successors, assigns, and representatives, from the beginning of time to the date of this Agreement, for certain good and valuable consideration, from all of those certain debts, claims, counter-claims, set-offs, causes of action, lawsuits, demands, costs, damages, expenses, loss of services, interest or the like of whatsoever kind or nature, whether arising in law or in equity, which Westgate may have had, may now have, or may hereafter have against said parties from the beginning of time to the date of this Agreement including but not limited to claims arising out of the 2009 Budget Methodology and the Final Judgment.

10. Consideration, No Admission. Westgate and the Association admit the sufficiency and validity of the consideration for this Agreement. Westgate and the Association do not admit any liability or responsibility of any sort by reason hereof. This Agreement is made in compromise and to terminate further controversy respecting all past and present claims by and between Westgate and the Association, including, but not limited to, all claims arising out of the 2009 Budget Methodology and the Final Judgment.

11. Arbitration. Any controversy or claim under this Agreement or any disputes regarding the annual budget, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, before a single arbitrator. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. In any event, any demand for arbitration regarding the annual budget must be filed before the beginning of the fiscal year for the budget in dispute. The arbitrator shall resolve any budget disputes based upon the terms of this Agreement, the agreed upon budget procedures set forth herein and the exhibits hereto. The Arbitrator's decision shall be binding

only for the particular annual budget at issue and shall not apply to any future budgets. Westgate shall provide its Shared Amenity Budget to the Association no later than November 1, in any given calendar year. The arbitration provisions of the Shared Use Agreement shall be amended consistent with this section 11.

12. Miscellaneous.

a. Westgate and the Association acknowledge that this Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein, and that they have had the benefit of counsel in negotiating and executing this Agreement, and that they have entered into this Agreement freely and voluntarily. This Agreement shall not be deemed to have been drafted by a particular party.

b. Should any court of competent jurisdiction deem any provision or clause of this Agreement to be illegal, invalid, or unconscionable and unenforceable, such provision or clause shall be fully severable from this Agreement and, in its place, there shall be added to this Agreement a similar provision as near in intent as possible which is not illegal or unconscionable, and this Agreement shall be construed and interpreted as if such illegal, invalid, or unconscionable and unenforceable provision or clause had never comprised a part of this Agreement.

c. Each party shall bear payment of its own attorney's fees and costs associated with resolving this dispute, including any and all attorney's fees and costs incurred in the Lawsuit and Appeal.

d. In the event of any litigation arising under this Agreement, the prevailing party shall be entitled to the recovery of all court costs and attorneys' fees inclusive of court costs and attorneys' fees incurred in any appellate proceedings. This Agreement is to be interpreted in accordance with the laws of the State of Utah.

e. This Agreement cannot be changed or modified except by another agreement in writing signed by the party sought to be charged therewith or by its duly authorized agent.

f. This Agreement constitutes all of the understandings and agreements of whatsoever nature or kind existing between the parties. No oral representation shall be enforceable by either party.

g. The paragraph headings contained herein are for convenience of reference only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement.

h. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

i. To expedite the execution of this Agreement, Westgate and the Association agree that this agreement can be executed in counterparts and facsimile signatures will be treated as originals.

j. All Parties have participated in the negotiation and drafting of this Agreement. As a result, to the extent an ambiguity exists in this Agreement, it shall not be construed or interpreted against any specific party.

13. Effectiveness. The effectiveness of this Agreement shall be conditional upon the approval of sixty-seven percent (67%) of the voting interests of the Association.

IN WITNESS WHEREOF, the parties have set their hands and seals as of the date and year first above written.

WESTGATE RESORTS, LTD.

By: _____

Its: _____

THE LODGE AT WESTGATE PARK CITY
RESORT AND SPA CONDOMINIUM
ASSOCIATION, INC.

By: _____

Its: _____

PRESIDENT

Exhibit "A" to Settlement Agreement
2021 Base Amenity Budget

2021 WG Proposed Park City Condo Budget

SHARED AMENITIES

Skier Services
 Transportation / Bell Service / Concierge
 Recreation Area / Yoga Room / Gym / Heated Sidewalks
 Security

TOTAL SHARED AMENITIES EXPENSES

151-59 SHARED AMENITIES MGMT FEE

TOTAL SHARED AMENITIES

2021	2021			
Westgate	Revised Condo Budget			
Condo Budget	10% Occ. Reduction	20% Occ. Reduction	30% Occ. Reduction	Exhibits
\$188,824	\$161,904	\$141,854	\$123,143	Exhibit F
\$507,793	\$445,176	\$377,945	\$377,945	Exhibit G
\$13,765	\$13,765	\$13,765	\$13,765	Exhibit H
\$108,924	\$108,924	\$108,924	\$108,924	Exhibit I
\$819,307	\$729,770	\$642,489	\$623,777	
\$81,931	\$72,977	\$64,249	\$62,378	
\$901,238	\$802,747	\$706,737	\$686,155	

EXHIBIT F
Skier Services

	2021	2021	2021	2021
	Condo Shared Amenities Budget	Revised Condo Shared Amenities Budget 10% occ. reduction	Revised Condo Shared Amenities Budget 20% occ. Reduction	Revised Condo Shared Amenities Budget 30% occ. reduction
Payroll				
4211001-Payroll-Hourly	155,345	129,440	110,147	92,142
4213001-Payroll-Management	12,909	12,909	12,909	12,909
4214001-Payroll-Overtime	-	-	-	-
4412998-Contract Services Hourly	-	-	-	-
Total Payroll	168,254	142,350	123,056	105,052
Benefits				
4221002-Fringe Benefits	1,640	1,388	1,200	1,024
4224001-401K-Employer	1,097	928	802	685
4226001-Worker's Compensation	422	357	309	263
4227001-FICA/Medicare	3,158	2,671	2,309	1,971
4228001-Federal Unemployment	119	101	87	74
4229001-State Unemployment	165	140	121	103
Total Benefits	6,601	5,584	4,827	4,121
Total Payroll & Related	174,854	147,934	127,884	109,173
Expenses				
4411699-Operating Supplies-General	5,500	5,500	5,500	5,500
4411799-Office Supplies/Printing	1,100	1,100	1,100	1,100
4412599-Employee Welfare / Uniforms	6,160	6,160	6,160	6,160
4412999-Contract Services-General	-	-	-	-
4413406-Cust Satisfaction	165	165	165	165
4413503-Drug Testing /Reference Checks	1,045	1,045	1,045	1,045
Total Operating Expenses	13,970	13,970	13,970	13,970
	188,824	161,904	141,854	123,143

Notes:

All supplies and non-payroll expenses are budget estimates, however cost will be based on actual expenses.

Payroll Assumptions			
Hours Per Month	Annual Merit Increase (Dec-19 & Dec-20)	Position/FTEs	Hourly Rate
		Monthly FTEs:	
		Sup (Extended Sta Season) N.S.	\$7.00
		Monthly FTEs:	
		Attendants (Sta Season) Dec-19	\$12.00

2020 BUDGET												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
184	160	176	176	168	176	184	168	176	176	168	184	2,056
2	2	2	2	0	0	0	0	0	0	2	2	3%
\$ 6,444	\$ 5,603	\$ 6,154	\$ 6,154	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,883	\$ 6,637	\$ 56,831
\$ 63,679	\$ 55,975	\$ 60,910	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 28	\$ -
30	30	30	2	0	0	0	0	0	0	2	65,589	\$ 245,551
\$ 70,122	\$ 60,975	\$ 67,074	\$ 6,154	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,883	\$ 72,276	\$ 782,405

Please list Position:	Annual Salary
Monthly FTEs	
Wgr (Extended Sg Season F	\$ 21.63
Total Monthly FTEs	
Total Payroll-Management	

[illegible]

Release List: Position: _____
 Monthly FTE: _____
 Contract Labor Position: _____ \$ _____
 Total Monthly FTEs _____
 Total Contract Labor _____

[illegible]

Total Payroll (Excluding Benefits)

\$ 74,722	\$ 64,541	\$ 70,995	\$ 10,085	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,526	\$ 76,448	\$ 30,915
-----------	-----------	-----------	-----------	------	------	------	------	------	----------	-----------	-----------

Condo Allocation	55%	168,254
Timeshare Allocation	45%	137,662

Transportation & Concierge

	2021	2021	2021	2021
	Condo Shared Amenities Budget	Condo Shared Amenities Budget 10% occ. reduction	Condo Shared Amenities Budget 20% occ. Reduction	Condo Shared Amenities Budget 30% occ. Reduction
Payroll				
4211001-Payroll-Hourly	215,326	178,230	133,703	133,703
4213001-Payroll-Management	29,763	29,763	29,763	29,763
4214001-Payroll-OverTime	-	-	-	-
Total Payroll	246,089	207,993	163,466	163,466
Benefits				
4221002-Fringe Benefits	17,671	14,935	11,738	11,738
4224001-401K-Employer	5,853	4,947	3,888	3,888
4226001-Worker's Compensation	1,738	1,469	1,154	1,154
4227001-FICA/Medicare	27,608	23,334	18,339	18,339
4228001-Federal Unemployment	727	614	483	483
4229001-State Unemployment	1,770	1,496	1,176	1,176
Total Benefits	55,366	46,795	36,777	36,777
Total Payroll & Related	301,455	254,788	200,242	200,242
Expenses				
4411208-Equipment Rent & Purchase	3,850	3,300	2,750	2,750
4411401-Vehicle Repair and Maint	17,600	13,200	9,900	9,900
4411403-Fuel/Gasoline/Diesel Exp	22,000	19,250	18,040	18,040
4411405-Vehicle Lease	100,958	100,958	100,958	100,958
4411699-Operating Supplies-General	14,850	13,475	11,990	11,990
4411905-Utilities-Cell/Radio	3,300	3,025	2,680	2,680
4412599-Employee Welfare/Uniforms	13,200	9,350	6,325	6,325
4413406-Cust Satisfaction	8,250	6,875	5,280	5,280
4413503-Drug Testing/Reference Checks	3,850	2,475	1,300	1,300
4413650-Taxes, Licenses & Fees	18,480	18,480	18,480	18,480
Total Operating Expenses	206,338	190,388	177,703	177,703
Total Expenses	507,793	445,176	377,945	377,945

Notes:

All supplies and non-payroll expenses are budget estimates, however cost will be based on actual expenses.

EXHIBIT H
Recreation

2021 Budget

Condo	
Labor	\$4,411
Supplies	\$1,099
Monthly Service Contract	\$2,277
Total	\$7,787

\$0	
Labor	\$2,940
Supplies	\$693
Total	\$3,634

Yoga Room

Labor	\$1,470
Supplies	\$473
Total	\$1,943

Heated Sidewalks

*Should not be included as it is already calculated in a energy line item.	\$0
--	-----

Grand Total Expenses	\$13,365
-----------------------------	-----------------

\$13,765

Notes:

All supplies and non-payroll expenses are budget estimates, however cost will be based on actual expenses.

Exhibit H Recreation

EXHIBIT I
Security

2021

Payroll

4211001-Payroll-Hourly/Compensated Abs 40,072
4213001-Payroll-Management 38,500
4214001-Payroll-Overtime -
Total Payroll 78,572

Benefits

4221002-Fringe Benefits 8,504
4224001-401K-Employer 2,455
4226001-Worker's Compensation 735
4227001-FICA/Medicare 5,851
4228001-Federal Unemployment 190
4229001-State Unemployment 305
Total Benefits 17,541

Total Payroll & Related

96,113

Expenses

4411699-Operating Supplies-General 1,122
4411802-Computer Software 2,356
4411905-Utilities-Cell/Radio 614
4412599-Employee Welfare/Uniforms 3,412
4412999-Contract Services-General 5,198
4413406-Customer Satisfaction 8
4413503-Drug Testing/Reference Checks 101

Total Expenses

12,811

108,924

Notes:

All supplies and non-payroll expenses are budget estimates, however cost will be based on actual expenses.

Exhibit 11
SECURITY

Payroll Assumptions

Hours Per Month
Annual Merit Increase (Dec-19 & Dec-20)
Position/FTEs
Hourly Rate
Monthly FTEs
Security Officer \$ 16.88
Total FTEs
Total Payroll-Hourly

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	12 Month Total
184		160	176	176	168	176	184	168	176	176	168	184	
2	2	2	2	2	2	2	2	2	2	2	2	2	2
6,379	\$ 5,547	\$ 5,547	\$ 6,102	\$ 6,102	\$ 5,825	\$ 6,102	\$ 6,379	\$ 5,825	\$ 6,102	\$ 6,102	\$ 5,825	\$ 6,379	\$ 72,859.28
2	2	2	2	2	2	2	2	2	2	2	2	2	
6,379	\$ 5,547	\$ 5,547	\$ 6,102	\$ 6,102	\$ 5,825	\$ 6,102	\$ 6,379	\$ 5,825	\$ 6,102	\$ 6,102	\$ 5,825	\$ 6,379	\$ 72,859.28
1	1	1	1	1	1	1	1	1	1	1	1	1	1
6,145	\$ 5,344	\$ 5,344	\$ 5,878	\$ 5,878	\$ 5,611	\$ 5,878	\$ 6,145	\$ 5,611	\$ 5,878	\$ 5,878	\$ 5,611	\$ 6,145	\$ 70,000
1	1	1	1	1	1	1	1	1	1	1	1	1	1
6,145	\$ 5,344	\$ 5,344	\$ 5,878	\$ 5,878	\$ 5,611	\$ 5,878	\$ 6,145	\$ 5,611	\$ 5,878	\$ 5,878	\$ 5,611	\$ 6,145	\$ 70,000
0	0	0	0	0	0	0	0	0	0	0	0	0	0
-	-	-	-	-	-	-	-	-	-	-	-	-	-
\$ 12,524	\$ 10,891	\$ 11,980	\$ 11,980	\$ 11,435	\$ 11,980	\$ 11,980	\$ 12,524	\$ 11,435	\$ 11,980	\$ 11,980	\$ 11,435	\$ 12,716	\$ 142,859
													78,573
													64,287

Please List Position
Monthly FTEs
Manager 25.00
Total Monthly FTEs
Total Payroll-Management
Total Monthly FTEs
Total Contract Labor

Total Payroll

Condo Allocation 55%
Timeshare Allocation 45%

Exhibit "B" to Settlement Agreement
Occupancy Summary

Occupancy Data for Building 19 - Base Budget				
Month/Year	Days/mo ***	Total days available*	No. days occupied**	Jan - Mar occupied
Jan. 2020	31	9176	7584	7584
Feb. 2020	29	8584	8502	8502
March 2019	31	9176	8918	8918
(Total Jan-Mar)				25004
April 2019	30	8880	2622	
May 2019	31	9176	2876	
June 2019	30	8880	5623	
(Total Jan-June)				
July 2019	31	9176	7940	
August 2019	31	9176	6993	
Sept. 2019	30	8880	5586	
Oct. 2019	31	9176	4669	
Nov. 2019	30	8880	3254	
Dec. 2019	31	9176	5579	
Totals		108336	70146	
*Days available Bldg 19: using 296 keys				
**Days occupied Bldg 19: used WG monthly data				
***Only 28 days in Feb decreases available by 296 and occupied by 290				
Occupancy percentage for calendar year to be determined by multiplying actual nights as a percentage of Base Occupancy Budget (70,146)				
Charges for Transportation, Security and Recreation for the year will be the percentage for the year.				
Sklar Services % will be calculated on the first three months actual as a percentage of Base (25,004)				
HOA will estimate monies needed for year and pay Westgate monthly.				
Payment will be adjusted after mid-year and year-end to pay actual monies due.				
This data will only apply to the calculation of adjustments to the 2021 Amenity Use Fee as provided by Paragraph 2.d of the Settlement Agreement				

Exhibit "C" to Settlement Agreement
2009 Budget Methodology

Reply | Kevin Shields to me, Kristin, PRESTONCJ, Richard, lisasabo, Ed

show details Nov 19 (6 days ago)

Maria,

This was great- Thank you !!!

I went through it with Kristin and it looks like everything is covered as discussed. Kristin will forward the document from the Bank on the Reserve Account.

Thanks again,

Kevin

From: Maria Johnson [mailto:mariajohnsonncj@gmail.com]

Sent: Thursday, November 19, 2009 9:17 AM

To: Kevin Shields; Kristin Caprio; PRESTONCJ@aol.com; Richard Schwartz; lisasabo@yahoo.com; Ed Moncrief; Maria Johnson

Subject: Adjustments to the budget

Kevin,

On September 24, 2009, Jim Preston, Kristin Caprio, you and myself sat down and agreed to the remaining outstanding items on the Finance Committee wish list so everyone can move forward. Kristin indicated she would make the changes the following Monday (September 28, 2009). To this date we have not seen anything. On October 29, 2009, you asked me to re-send you the information that we agreed to. I have left you several voice mails and e-mails regarding this topic and we were able to connect this past Monday on November 16, 2009. You indicated that you agreed to all of the items but just needed to find time to get it done. During the November 17, 2009 Finance Committee call you indicated that it would take another month to get it done.

I know everybody is busy, so I thought instead of being a pest, I would be helpful.....

I have made the changes to the budget that we all agreed would be done. THE CHANGES ARE ATTACHED AND ARE HIGHLIGHTED IN YELLOW. All changes added are just notes that clarifies understanding.

Please review the changes and send back a note to the finance committee that you are in alignment and we will be good to go. We will then have a final copy of the Budget and Exhibits that confirms all the good work that the finance committee and Westgate have achieved by working together over the past six months.

We all appreciate your help

Maria

EXHIBIT 147
DATE 3/11/15
WITNESS P. Carlee
CARILEE DUSTIN, CSR, RPR

The Lodge at Westgate Park City Resort & Spa Condominium Association, Inc. Estimated Budget

	2009	2009 Amended	Change
I. ADMINISTRATION			
Property Administration	189,620	72,684	(66,936)
II. MANAGEMENT FEES			
	204,663	117,162	(87,501)
III. MAINTENANCE			
Front Desk	69,860	76,765	6,906
Maintenance / Grounds	300,869	311,501	10,632
Housekeeping	83,067	98,960	15,893
IV. UTILITIES			
	878,462	525,718	(352,744)
V. PROPERTY TAXES			
	117,756	-	(117,766)
VI. INSURANCE			
	76,392	79,739	3,347
VII. OTHER EXPENSES			
Amenities Use Fee	72,240	72,240	-
Bad Debt	35,000	35,000	-
Repart Valley Management Assoc. (RVMA) Assessment	97,836	-	-
VIII. RESERVES			
Total	185,628	375,000	189,372
Total Condominium Unit Owner & Commercial Unit Expense	2,261,403	1,764,770	(496,633)
Commercial Unit Designated Costs	(9,741)	(100,987)	(91,246.46)
Total Condominium Costs	\$2,251,664	\$1,663,783	(\$587,881)

If any inconsistencies for methodology exists between Budget Exhibits and Westgate legal documents, the Budget Exhibits will supersede the legal documents including COR's, Shared Use Agreements, Management Agreement, etc.

1,546,621 Total budget before management fee
1,171,621 Less Reserves and RVMA
117,162 Management Fee

County

Exhibit A

1. Property Administration- The totals for this line item are a combination of salaries and supplies required to operate the Management Agreement. 25% of the following salaries are included in this: Salaries and Wages associated with this section will be capped at 3% annual increase for 2010 & 2011.

- a. General Manager
- b. Property Controller
- c. Property Assistant Controller

"Future Increases Clause" Future increases will be held to the National Index for CPI defined as the Urban Wage Earners and Clerical workers index unless the Finance Committee and Westgate mutually agree to the higher increase for additional services being rendered or a justified headcount increase

	Annual
Property Administration	
25% of GM, Controller, and Assistant Controller	
Payroll 25% of salary	\$ 63,828.00
Fax/Copier	5,856
Postage	1,200
Supplies	1,800
TOTAL	72,684

Notes:

Prior Months: we will use above amounts agreed to by the finance committee.

Future Months:

We will direct bill postage and supplies to HOA.

Printer will be the same amount every month.

Future Years:

3% Cap on salary increase

2010 \$65,742.84

2011 \$67,715.12



Exhibit B

		Annual
Front Office/PBX		
3 Clerks		
	Payroll	76,765

Notes:

Average wages determined using actual pay rates for current staff.

Payroll includes taxes and benefits, 32% of the total pay.

Future Years:

3% Cap on salary increase

2010 \$79,067.95

2011 \$81,439.98

Future Increases Clause: Future increases will be held to the National Index for CPI defined as the Urban Wage Earners and Clerical workers index unless the Finance Committee and Westgate mutually agree to the higher increase for additional services being rendered or a justified headcount increase.



Exhibit C

		Annual
Engineering		
M. POM + 1/2 Management Fee to HOAs		
Payroll		155,617
HVAC	45% of Actuals	8,702
Paint	Direct Billed	1,800
Plumbing	Direct Billed	2,756
Pool	50% of Actuals	18,280
Locks	Direct Billed	5,078
Landscaping	Direct Billed	7,600
Building R and M	Direct Billed	9,395
Machinery/Equip.	Direct Billed	4,840
Snow Removal	45% of Actuals	2,400
Cell/Radio	One phone	1,200
Fire Safety	Contract	25,534
Pest Control	Contract	2,400
Elevator Services	Contract	18,000
Snow Removal Contract	Contract	6,000
Contract Services	Direct Billed	42,000
TOTAL		311,501

*Payroll includes taxes/benefits, 32% of total

Notes:

Uniforms deleted from Condo's operating costs.

Added maintenace costs for 20 hot tubs included as part of common area.

Future Years:

3% Cap on salary increase

2010 \$160,285.51

2011 \$165,094.07

"Future Increases Clause" Future increases will be held to the National Index for CPI defined as the Urban Wage Earners and Clerical workers index unless the Finance Committee and Westgate mutually agree to the higher increase for additional services being rendered or a justified headcount increase.

Maintenace:

The Condo Lodge HOA: everything in the Moose and Bison Lodges, in and around outside walkways, outdoor pool, adult relaxation pool, two hot tubs, and sauna/steam rooms. Excludes: Laundry room and interior of all rooms, including storage closet.

Exhibit C

Also, Lodge HOA pays for specific equipment located on floors one and two under Moose Lodge. Chillers, boilers, air handlers, and all other applicable equipment used to operate the Moose/Bison buildings are shared 45% by HOA and 55% by Developer.

to provide easement to allow Presidential Suite owners to place hot tubs on the decks which are considered common space area. The owners of the private hot tubs will be responsible for ordinary maintenance and repair costs. Westgate to develop a set of standards to ensure private hot tubs are being properly maintained. Westgate will prepare a separate proposal to the owners of the private hot tubs for maintenance and repairs and bill separately or add as a premium to their HOA dues. There will be no maintenance costs or capital reserve replacement costs in the overall HOA budget associated with private hot tubs maintenance. Owners will be responsible for all hot tub replacement costs.

Westgate will address the drainage issues from the open decks and make the necessary changes to keep water from coming into the units below. This will eliminate moisture from coming down the unit facade deteriorating stucco and penetrating window and door areas. Westgate to agree that any damage caused by drainage issues including the railings will be repaired by the Developer and not be the responsibility of HOA to repair or use HOA Capital Reserves.



Exhibit D

		Annual
Housekeeping		
4 Housekeepers		
Payroll		92,960
Supplies		6,000
		98,960

*Payroll includes taxes/benefits, 32% of total

Changes:

Added supplies needed for cleaning the common areas.

Future Years:

3% Cap on salary increase

2010 \$95,748.80

2011 \$98,621.26

Future Increases Clause: Future increases will be held to the National Index for CPI defined as the Urban Wage Earners and Clerical workers index unless the Finance Committee and Westgate mutually agree to the higher increase for additional services being rendered or a justified headcount increase

Condo Allocation for Utilities**Sewer**

Base amount charged for 250 units

Building 10- 31 units	12%
Building 11- 52 units	21%
Building 19- 167 units	67%

Volume Charge

45% to HOA
55% to Developer

Cable

Currently contracted for 84 units only.
Works out to \$14.37/per unit.
Waiting on Comcast to correct statements.
Will back charge through August 08.

Gas**Meter: 39532**

Fireplaces in Moose/Bison: 10%
100% to HOA

Laundry: 65%
0% to HOA

Outdoor Pool: 25%
100% to HOA

Meter: 694817

Fireplaces in Bear/Elk: 15%
0% to HOA

Grill Kitchen: 5%
0% to HOA

Boilers: 80%
45% to HOA
55% to Developer

Trash

45% to HOA
55% to Developer

Water

26% of Total for Laundry

55% of Remainder to Developer
45% of Remainder to HOA

Electricity**Item 1: Meter 21332783**

Hallway Lighting
Main control for Bear
Emergency Generators
Chillers
Pump Rooms

HOA responsible for 30%**Item 5: Meter 21332770**

Lobby
Main control for Elk
Marketplace
Spa

HOA responsible for 5%**Item 4: Meter 21332768**

Moose/Bison only
Room power box breakers

HOA responsible for 100%**Item 13: Meter 35709549**

Laundry Room: 80%
Heat Trace- 19 only
Adult Pool

HOA responsible for 20%

Exhibit F

Property Taxes are paid by the individual owners covering their own condominium taxes and will include common areas in the future. Commercial and Retail are taxed separately and are the responsibility of the Commercial and Retail operator. The new plat will be filed immediately.

New plat will be filed by October 1, 2010. If there are any mistakes to the 2009 taxes, these will be addressed on a case by case basis.

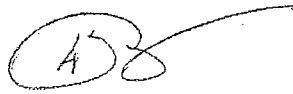
A handwritten signature, possibly reading "A. B.", is written in dark ink. The signature is stylized, with the first letter of each name being large and prominent.

Exhibit G

Will update with new premium from Brian Siegel

Insurance will be a policy written jointly with the Westgate Representative and the Finance Committee. Any proposals will be submitted and jointly decided between Westgate and Finance Committee for consideration and decided upon based on types of coverage, limits of coverage and deductibles.

Westgate to guarantee the Finance Committee can view the new policy by November 1, 2009 and make any needed adjustments in time for the 2010 Budget if necessary.

A handwritten signature in black ink, appearing to be 'L. B.', with a stylized flourish extending to the right.

Amenity Use Fee*Any feature that provides comfort, convenience or pleasure*

Budget	\$72,240
Units	201
Price per Unit	\$359.40
Months	12
Monthly Cost per Unit	\$29.95

For \$29.95 a month, each owner and his/her guests have unlimited access to the following amenities:

Parking Garages

- Bear/Elk Access Garage
- Moose/Bison Access Garage

The garages also make for convenient parking when staying off property but stopping by to ski, catch a band at the summer concert series or to watch fireworks mountainside.

Pools

- Indoor/Outdoor pool with poolside activities and two hot tubs
- Outdoor Pool and hot tub
- Adult Relaxation pool and hot tub for 18 years and older only
- Sauna
- Steam Room

Recreation Area

- Tennis Court
- Basketball Court
- Playground
- Grills
- Lounge Area

Concierge

- Van Shuttle
- Complimentary equipment rental
- Dinner reservations or suggestions
- Local activity planning
- Directions and maps
- Luggage transport
- Morning newspaper delivery
- Labor for Quarter 1: \$68,383

Ski Services

- Ski storage
- Guest lockers
- Boot dryers
- Ski transport to and from Gondola
- Labor Cost for Quarter 1: \$101,346

Security

- Nightly Security Patrol
- Daily Written Security Reviews
- Labor Cost for Quarter 1: \$7,328

Internet

- Internet Access

Additional Amenities

- Heated Sidewalks
- Gym
- Yoga Room

Exhibit I

Bad Debt- This line item will be reviewed on an annual basis.


A handwritten signature or set of initials, possibly "LJ", enclosed in a circle with a long horizontal line extending to the right.

Exhibit J

Resort Village Management Association Fees- Payment of these fees will be made by the Developer for 2009 and for the 2010 Budget Years. For the following years, the fees will be determined by the RVMA assessment rate by square footage.

Any update changes made to the RVMA assessment will be a direct pass through beginning of 2011.

A handwritten signature in black ink, appearing to be 'LS' with a flourish, is located to the right of the highlighted text block.

Exhibit K

The Reserve Study was conducted by an independent Reserve Analyst. The Developer has agreed to pay for this service that is originally the responsibility of the HOA. The Reserve Study has been reviewed by the Developer Representative and Owner Finance Committee representatives to ensure proper coverage and percent funded. The Developer agrees pay into the Reserve Account on a monthly basis even through the guarantee period for unsold units and the 16 timeshare units. The Management Company has agreed that it will not be paid 10% of the interest on the Reserve Account. The finance committee and Westgate jointly identified the items which will be paid out of the Reserve Account as well as the life, cost and % of each item that is to be shared with the Time Share HOA. The study is on file for review. Westgate will not use the capital reserve fund for routine maintenance.

Reserve Funds will not be used or moved to the Operations Account.

Westgate will address the drainage issues from the open decks and make the necessary changes to keep water from coming into the units below. This will eliminate moisture from coming down the unit façade deteriorating stucco and penetrating window and door areas. Westgate to agree that any damage caused by drainage issues including the railings will be repaired by the Developer and not be the responsibility of HOA to repair or use HOA Capital Reserves.

Westgate to provide a letter from the Bank who is holding the trust account on the status of the account and by who and under what procedures the account can be accessed. This should include unanimous signoff for the Board.



Exhibit L

Commercial Unit Designated Cost	
Commercial Square Footage	15,205
Total Square Footage	147,767
Percentage Commercial	10.3%
Breakdown:	
Reserves	\$38,625.00
Utilities	\$54,148.95
Insurance	\$8,213.12
RVMA	\$0.00
$\$0.40 \times 15,205 = \6082	
Total Commercial Cost	\$100,987.07

Developer will pay 100% of RVMA fee for 14,300 square feet of commercial space each year beginning 2011.

Management Fees

This amount will be 10% of the Lodge Home Owner Budget Total less Reserves, Taxes and RVMA and will be paid monthly. This is calculated after Commercial Unit Designated Costs are taken out."

A handwritten signature in black ink, appearing to be 'LB' with a stylized flourish.

The Lodge at Westgate Park City Resort & Spa Condominium Association, Inc.
PROJECTED TWELVE MONTHS OPERATING BUDGET
FOR THE PERIOD JANUARY 1, 2009 - DECEMBER 31, 2009

SOURCES OF REVENUE	Annual Budget
I. Main. Fees - Studio B1	\$115,684
II. Main. Fees - Studio B2	\$9,399
III. Main. Fees - Studio B3	\$34,009
IV. Main. Fees - Studio B5	\$22,494
V. Main. Fees - Studio B6	\$3,749
VI. Main. Fees - One bedroom A1	\$311,303
VII. Main. Fees - One bedroom A2	\$13,836
VIII. Main. Fees - One bedroom A5	\$36,017
IX. Main. Fees - One bedroom A6	\$26,779
X. Main. Fees - One bedroom A7	\$47,934
XI. Main. Fees - Two bedroom A1 /B1	\$486,303
XII. Main. Fees - Two bedroom A1/ B2	\$100,510
XIII. Main. Fees - Two bedroom A2/ B1	\$40,525
XIV. Main. Fees - Two bedroom A3 /B1	\$10,105
XV. Main. Fees - Two bedroom A4 /B1	\$10,131
XVI. Main. Fees - Two bedroom A4 /B4	\$11,051
XVII. Main. Fees - Four bedroom C1, B1, B1	\$249,489
XVIII. Main. Fees - Four bedroom C1, B1, B4	\$60,734
XIX. Main. Fees - Four bedroom D	\$73,731

Total Condominium Unit Owner Revenues

\$1,663,783

EXPENSES FOR THE MANAGING ENTITY:

I. ADMINISTRATION	
Property Administration	\$72,684
II. MANAGEMENT FEES (Note 2)	117,162
III. MAINTENANCE	
Maintenance / Grounds	487,226
IV. UTILITIES	525,718
V. PROPERTY TAXES (Note 3)	-
VI. INSURANCE	79,739
VII. OTHER EXPENSES	
Amenities Use Fee	72,240
Bad Debt	35,000

Resort Valley Management Assoc. (RVMA) Assessment (Note 4)	0
VIII. RESERVES (Note 5)	375,000
Total Condominium Unit Owner & Commercial Unit Expense	<u>1,764,770</u>
XIV. Commercial Unit Designated Costs (Note 6)	(\$100,987)
Total Condominium Unit Owner Expenses (Note 1 & 7)	<u><u>1,663,783</u></u>

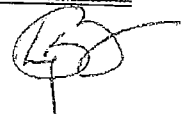


Exhibit "D" to Settlement Agreement
PayScale Detail

Westgate Park City Resort & Spa

Compensation Market Review

Updated: October 2, 2020

Data Sources

The market rates will be based on a blended average of the jobs matched using the below three market data sources:

- PayScale Crowdsourced Data
- PayScale Company Sourced Data
- Mercer Benchmark Database

If any of these data sources becomes unavailable or if Westgate Resorts changes compensation providers in the future, the data source(s) will be replaced with similar data sources.

Competitive Set

- Skiing Facility – Selected as a filtering for competitive set data

Location

PayScale looks at the local market data first. If there is not enough data for the job, they look at the metro market. If there is not enough data, then they look at the state level data followed by national level data. Market data included in priority order based on sample size:

- Local market – Park City, UT
- Metro – Salt Lake City, UT
- State – Utah
- National – U.S.

Competitive Positioning

- 75th percentile

Positions Reviewed

- General Maintenance
- Concierge Bell Services Manager
- Guest Relations Supervisor
- Security & Safety Director
- Security Officer
- Driver
- Guest Relations Agent
- Concierge

Annual Distribution of Compensation Data

- For the purpose of reaching a settlement agreement, Westgate and the Board will use the current blended data for the exhibit within the settlement agreement. Following, the release of the 2020 Mercer report and the July 2020 PayScale report, Westgate will update the compensation data with the intent to use this data as the baseline for future years. This data should be available no later than November of 2020. Since the budget for 2021 is already established, this data will not impact 2021 budget, rather it will be used for 2022 and future budgets.
- The General Manager of Westgate Park City will serve as the point of contact to provide this data annually. This information will be used to support the development of the annual budget and will be provided by November 1 (30 days prior to the budget release). If the board would like to request this data at any other time, it must be done via email with a 30 days' notice.
- Upon request from the board, Westgate Park City will have a representative from Payscale validate the accuracy of the data.
- If Westgate changes compensation survey providers or the survey provider is no longer available, Westgate and the board will work in good faith to establish a method of measurement and baseline for future years, attempting to keep as consistent to this methodology as possible.
- The PayScale market base salary is the 75% percentile compensation data. The hourly rate will be multiplied by 2080 hours worked to provide an annual salary number.
- Westgate Park City will provide from PayScale the full job descriptions no later than November 1 each calendar year from all 8 positions listed on page one of this summary.

Amenities Yearly Increases

PayScale Job Title	WG Base Salary	2020 PayScale Market Base**	PayScale Job Code	PayScale # of Companies	PayScale # of People	2021 PayScale Market Base	% Change
General Maintenance	\$44,990	\$42,432	MNTGEN	84	228		
Concierge Bell Svcs Mgr	\$52,096	\$53,817	MGRCNB	10	42		
Guest Relations Supervisor	\$41,600	\$46,696	SPVGRL	16	49		
Driver	\$33,280	\$36,150	Driver	42	1074		
Security & Safety Director	\$70,000	\$109,820	DIRSS	139	708		
Security Officer	\$34,029	\$37,752	OFFSEC	8	26		
Skier Services Agent	\$30,272	\$33,696	AGTSKS	58	196		
Concierge Agent	\$31,200	\$34,840	CONCRG	5	58		
Guest Relations Agent	\$24,960	\$30,472	AGRGR	15	2190		
WG Job Title	WG 2021 Payroll	PayScale Job Title	% Change	2022 WG Payroll			
Skier Services							
Manager/Supervisor	\$12,909	Guest Relations Super					
Attendant	\$155,345	Skier Services Agent					
	\$168,254						
	\$174,854	With Benefits (3.9%)					
Transportation/Bell Service							
Manager	\$16,370	Concierge/Bell Svc Mgr					
Supervisor	\$13,393	Guest Relations Super					
Driver	\$151,328	Driver					
Attendant	\$64,998	Guest Relations Agent					
	\$246,089						
	\$301,455	With Benefits (22.5%)					
Security							
Security Off.	\$40,072	Security Officer					
Security Mgr	\$38,500	Security Director					
	\$78,572						
	\$96,113	With Benefits (22.3%)					
Recreation							
General Maint	\$7,351	General Maintenance					
	\$8,968	With Benefits (22%)					
	\$581,390	Total					
Notes: WG 2022 Amenities Payroll Salaries - (2021 PayScale Survey - 2020 PayScale Survey)/2020 PayScale Survey x WG 2021 Payroll + WG 2021 Payroll							
Benefits are calculated by using the % stated for each budget category							
**To be updated in October 2020 when PayScale data available							

Exhibit "E" to Settlement Agreement
The Association's Operating Budget and Budget Notes

The Lodge at Westgate Park City Resort & Spa Condominium Association, Inc.					
		Revised			
		Settlement			
		2020 HOA Budget	Notes		
I.	ADMINISTRATION				
	Property Administration	\$ 83,887	A		
	Computer Printer	\$ 5,000			
II.	MANAGEMENT				
	HOA Management Fees	\$ 76,925	B		
	Legal	\$ 160,000	B		
III.	MAINTENANCE				
	Front Desk	\$ 190,506	C		
	Maintenance/Grounds	\$ 389,096	D		
	Housekeeping	\$ 153,538	E		
IV.	UTILITIES	\$ 587,000	F		
V.	PROPERTY TAXES	\$ -	G		
VI.	INSURANCE	\$ 126,651	H		
VII.	OTHER EXPENSES				
	Amenities Use Fee	\$ 500,455	I		
	Bad Debt	\$ 100,175	J		
	Resort Valley Mgmt Assoc.	\$ 97,836	K		
VII.	RESERVES	\$ 375,000	L		
TOTAL	Operating Expenses and Reserves	\$ 2,846,069			
	COMMERCIAL UNIT DESIGNATED COSTS	\$ (118,213)	M		
TOTAL	Condominium Costs	\$ 2,727,856			

SETTLEMENT AGREEMENT BUDGET NOTES

A. PROPERTY ADMINISTRATION

25% of the following salaries are included in this line item: General Manager Resort, the Property Controller, and the Assistant Property Controller. 25% of the total salaries for 2020 is \$83,887.

Computer Printer - \$5,000

"Future Increase Clause" – Future increases will be held to the National index for CPI defined as the Urban Wage Earners and Clerical workers index unless the HOA Board and Westgate mutually agree to the higher increase for additional services being rendered or a justified headcount increase.

B. MANAGEMENT FEES

During the period of developer control, Westgate had a Management Agreement to provide a variety of management services. After the HOA Board was turned over to owners, the owners subsequently voted not to renew the Management Agreement with Westgate. This line item includes the following fees paid by the Association for management services.

Association Management Fee – The Association's Board manages the various contracts for services and for replacement repairs at the Resort. It pays All Seasons Resort Lodging and others to provide advice and services. This includes preparing annual meetings, interfacing with CVMA and other HOAs. The budget in 2020 is \$32,000.

Accounting and Audit – An accounting management service, bills owners for dues, collects them, pays invoices and maintains all the HOAs financial records. The 2020 Budget is \$37,400.

Legal Expenses – Fees required to hire legal counsel to represent homeowners as determined necessary. In the HOA 2020 Budget, \$160,000 is allocated for legal services.

HOA Board Expenses – Travel and meeting expenses. 2020 Budget is \$7,525

C. FRONT DESK/COMMERCIAL SERVICES

Front desk facility books owner reservations as requested by owners and checks them in upon arrival. Also, includes PBX telephone service to rooms as well as all outside calls. Westgate charges owners \$10 per reservation made for any guest. Payroll and Benefits for 2020 is \$190,506.

D. MAINTENANCE/GROUNDS

The Condo Lodge HOA: everything in the Moose/Bison Lodges, in and around outside walkways, outdoor pool, adult relaxation pool, two hot tubs, and Sauna/Steam Room. Excludes: Laundry room and interior of all rooms including storage closets. Also, the Lodge HOA pays for specific equipment located on floors one and two under the Moose Lodge. Chillers, boilers, air handlers and all other applicable

equipment used to operate the Moose/Blson buildings are shared 45% by the Condo HOA and 55% by the Developer/Timeshare HOA.

Payroll and Benefits - \$229,074 2020 Budget

As provided by the Settlement Agreement, \$50,000 will be added to payroll in 2022 for repairs and maintenance of the Bear/Elk Garage and paid annually. Yearly increases to be calculated as per Future Increase Clause below.

"Future Increase Clause" – Future increases will be held to the National Index for CPI defined as Urban Wage Earners and Clerical workers Index unless the HOA Board and Westgate mutually agree to the higher increase for additional services being rendered or a justified headcount increase.

Outside Services and Supplies - \$160,022

See Exhibit A

E. HOUSEKEEPING

Provide housekeeping services for Moose/Blson hallways, elevators, and rest rooms, as well as two pools with hot tubs/sauna/steam room and walkways.

Payroll and Benefits - \$129,514 2020 Budget

"Future Increase Clause" – Future increases will be held to the National Index for CPI defined as the Urban Wage Earners and Clerical workers Index unless the HOA Board and Westgate mutually agree to the higher increase for additional services being rendered or a justified headcount increase.

Supplies - \$24,014 2020 Budget

All supplies and non-payroll expenses are budget estimates; however, they will be billed based on actual expenses.

F. UTILITIES

All utilities will be billed to the HOA and paid to Westgate from the actual invoices based on the Allocation shown below. In the 2020 Budget total for all utilities is \$587,000.

Trash Removal \$29,000, Gas \$130,000, Electricity \$175,000, Water \$58,000, Sewer \$120,000, Cable TV \$60,000 and Internet Lines \$15,000.

See Exhibit B - Utilities Allocation Table

G. PROPERTY TAXES

As provided by the Settlement Agreement, Westgate is solely responsible for all taxes assessed upon the Commercial Unit. Resort Unit Owners are solely responsible for taxes assessed on their own units.

H. INSURANCE

Insurance will be a jointly written policy for the property naming both Westgate and the HOA as Insured. They will jointly decide what deductibles, coverage and limits of coverage are appropriate. The HOA also purchases D & O Insurance. The total Budget for 2020 is \$126,650

I. AMENITIES USE FEE

The Amenities Use Fee is determined in accordance with the terms of the Settlement Agreement.

J. BAD DEBT

Bad Debt is budgeted each year based on the expected delinquencies from owners. The Budgeted amount for 2020 is \$125,500.

K. RESORT VALLEY MANAGEMENT FEE

This association manages the Canyons Geographical Area and provides a variety of services to owners. Name changed in 2019 to CVMA. HOA pays current year assessment for 244,590 square feet. The 2020 Budget is \$97,836.

L. RESERVES

The 2020 Budgeted amount of \$375,000 is to fund the items and areas of responsibility identified in the Reserve Study originally completed in 2009 and updated since. The amount has been the same since 2009. It is updated every three years and reviewed by the HOA to determine if it is sufficient to pay for the anticipated cash flow need to fund the projected expenditures. The Reserve Study identifies the items to be paid from the Reserve Account as well as the life, cost, and % of each item to be paid by the HOA. Reserve funds will not be used for routine maintenance or moved to the Operations Account. Use of the reserve funds requires a unanimous signoff from Westgate and the Association's Board.

M. COMMERCIAL UNIT DESIGNATED COSTS

The Commercial Unit Owner pays 10.3% of the total of the budget for Reserves, Utilities, and Insurance. It also pays for 15,205 square feet of the CVMA Fee at the current assessment of \$.40/square foot. In the 2020 Budget the total is \$118,213.

Settlement Agreement Budget 7.6.20V3	EXHIBIT "1" to Budget Notes
Maintenance and Grounds Supplies and Services	
Supply/Service	2020 Budget
Pool Supplies and Equipment	\$ 50,000
HVAC	\$ 7,500
Boiler Services	\$ 5,000
Equipment rentals	\$ 3,000
Operating Supplies- General	\$ 15,000
Elevator Services	\$ 18,000
Contract Services - General	\$ 10,000
Window Cleaning	\$ 7,000
Pest Control	\$ 3,000
Fire Safety	\$ 10,000
Building repairs and maintenance	\$ 9,022
Electrical supplies	\$ 3,000
Locks	\$ 2,000
Landscaping	\$ 15,000
Plumbing Supplies	\$ 2,500
TOTAL	\$ 160,022

Exhibit "2" to Budget Notes

Exhibit B

Condo Allocation for Utilities

Sewer	
Base amount charged for 250 units	
Building 10- 31 units	12%
Building 11- 62 units	21%
Building 10- 167 units	67%
Volume Charge	
45% to HOA	
55% to Developer	

Cable
Currently contracted for 84 units only.
Works out to \$14.37/per unit.
Waiting on Comcast to correct statements.
Will back charge through August 08.

Gas
Meter: 39432
Fireplaces in Moose/Bison: 10%
100% to HOA
Laundry: 65%
0% to HOA
Outdoor Pool: 25%
100% to HOA
Meter: 694617
Fireplaces in Bear/Bilk: 15%
0% to HOA
Grill Kitchen: 5%
0% to HOA
Bollers: 80%
45% to HOA
55% to Developer

Trash
45% to HOA
55% to Developer

Water
25% of Total for Laundry
55% of Remainder to Developer
45% of Remainder to HOA

Electricity

Item 1: Meter 21332783
Hallway Lighting
Main control for Bear
Emergency Generators
Chillers
Pump Rooms
HOA responsible for 30%

Item 5: Meter 21332770
Lobby
Main control for Elk
Marketplace
Spa
HOA responsible for 5%

Item 4: Meter 21332768
Moose/Bison only
Room power box breakers
HOA responsible for 100%

Item 13: Meter 35709549
Laundry Room: 80%
Heat Traps- 10 only
Adult Pool
HOA responsible for 20%

Exhibit "F" to Settlement Agreement
Proposed Amendments to the Declaration and Shared Use Agreement

THIS INSTRUMENT PREPARED BY:
AND RETURN TO:

**NINTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM AND DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

FOR

THE LODGE AT WESTGATE PARK CITY RESORT & SPA, A CONDOMINIUM

* * *

This Ninth Amendment to The Declaration of Condominium and Declaration of Covenants, Conditions and Restrictions (the "Declaration") for The Lodge at Westgate Park City Resort & Spa, a Condominium, is made this _____ day of _____, 2020, by WESTGATE RESORTS, LTD., a Florida limited partnership ("Declarant" or "the Developer") and the Lodge at Westgate Park City Resort & Spa Owners' Association, Inc., a Utah not for profit corporation (the "Association").

WITNESSETH:

WHEREAS, Declarant is the developer of The Lodge at Westgate Park City Resort & Spa, a Condominium (the "Condominium"), which is located and situated in Summit County, Utah and described on **Exhibit "1"** attached hereto and incorporated herein, according to the Declaration thereof, recorded at Entry Number 00818013 of the Records of Summit County Recorder's Office, and all Exhibits thereto (the "Declaration"); and

WHEREAS, Article XX, Section 20.1 of the Declaration, states that the Declaration may be amended with a consent of a majority of the voting interests of the Association; and

WHEREAS, Article III, Section 3.13 of the Declaration, states that the provisions of Article II shall not be amended, modified or diminished without the prior written consent of the Commercial Unit Owner; and

WHEREAS, Declarant and the Association have determined that it is appropriate to amend the Declaration as set forth below.

NOW, THEREFORE, the Declaration is amended as follows:

Underlined text indicates additions;
~~Struck-through~~ text indicates deletions.

1. The above recitals are true and correct and form a material part of this Amendment.
2. The Eighth Amendment to the Declaration recorded at the Summit County, Utah Recorder's office on December 13, 2013 as Entry No. 00985897 in Book 2220 at Page 1488 of the official records, has been declared by the Third Judicial District Court for Summit County, Utah to be invalid and is hereby deleted in its entirety.
3. Article I, Section 1.1 of the Declaration is amended to add the following Definitions:

"Budget" or "Annual Budget" means the annual Budget as approved by the Association.

"Budget Methodology Agreement" means the Budget Methodology Agreement approved in the Final Judgment and order in case number 130500585 in the Third Judicial District Court in and for Summit County, Utah. A copy of the Budget Methodology Agreement is attached as Exhibit "C" to the Settlement Agreement and is incorporated herein by this reference.

"Settlement Agreement" means that certain Settlement Agreement dated _____ by and between Commercial Unit Owner and the Association and approved by a vote of the Owners. A copy of the Settlement Agreement is attached hereto marked Exhibit "2" and is incorporated herein by this reference.

4. Article III, of the Declaration is amended as follows:

ARTICLE III

The Commercial Unit

3.1 A non-exclusive easement is hereby granted in favor of each Owner and resident, their guests and invitees, for each member of the Association (and its and their guests, tenants and invitees) shall exist for (i) pedestrian traffic over, through and across such portions of the Commercial Unit as are designated by the Commercial Unit Owner and intended to provide direct pedestrian access to and from the applicable Resort Unit and the public right-of-way adjacent to the Project, and (ii) use and enjoyment of the Shared Components, subject to regulation as may be established from time to time by the Commercial Unit Owner. Third party vendors, as invitees of the Owners, shall have a right of access to the Units through the Commercial Unit subject to the following policies and procedures: all third party vendors providing services to Units in Building 19 must check in at the front desk, show proper identification, show proof of \$1 million liability insurance, and check out and return keys when leaving; all cleaning of Units shall be performed by the Commercial Unit Owner or an approved third party vendor; at any given time, the Commercial Unit Owner and the Association shall jointly designate at least two (2) housekeeping companies that shall be an approved vendor for the Project; and to qualify as an approved vendor to clean Units, companies must also agree to attend Westgate orientations at no cost, wear proper uniforms, and provide background checks for employees working at the Project. Any third party vendors performing major

Underlined text indicates additions;
~~Struck-through~~ text indicates deletions.

renovations or repairs to mechanical systems, plumbing or electrical systems at the Project must be pre-approved by the Commercial Unit Owner. Notwithstanding the foregoing, the aforesaid easement over the Commercial Unit is limited and solely for use of the named beneficiaries' including third party vendors as invitees of Owners as provided above, obtaining access to and from their Unit and shall not be used for the provision of ~~any services, including, without limitation, any other~~ hotel related services including, but not limited to, solicitation and/or provision of ~~housekeeping,~~ personal services (i.e. massage, personal training, dry cleaning, etc.) and/or food and beverage service, it being understood and agreed by all Owners that any such services may only be provided by the Owner(s) of the Commercial Unit.

3.2 The Commercial Unit Owner(s), from time to time, shall be responsible for the repair, replacement, improvement, maintenance, management, operation and insurance of the Commercial Unit, which shall be performed in a commercially reasonable manner in the determination of the Owner(s) of the Commercial Unit (which determination shall be binding). In consideration of the reservation and grant of easement over the Commercial Unit, as provided above, each Resort Unit Owner shall be obligated for payment of the expenses incurred by the Commercial Unit Owner(s) in connection with such maintenance, repair, replacement, improvement, management, operation and insurance, as more particularly provided below by the Budget established as provided by the terms of the Settlement Agreement.

3.3 Each Resort Unit Owner, by acceptance of a deed or other conveyance of the applicable Unit, and whether or not expressly stated, shall be deemed to agree that 100% ~~95.5%~~ of the Shared Costs, as hereinafter defined, less the Commercial Unit Designated Cost, as hereinafter defined (with the Owner of the Commercial Unit being responsible for the Commercial Unit Designated Cost remaining 4.5% of the Shared Costs) shall be paid for in part through Charges (either general or special) imposed against the Resort Units in accordance with the terms hereof. For purposes, hereof, the "Shared Costs" shall be deemed to be the aggregate of the following: (i) the costs incurred by the Commercial Unit Owner in (or reasonably allocated to) the repair, replacement, improvement, maintenance, management, operation, ~~real estate taxes, ad valorem tax obligations~~ and insurance of the Shared Components, including, but not limited to, a management fee, not to exceed ~~fifteen~~ ten (10%) percent of the Shared Costs, (ii) reasonable reserves for the Shared Components, ~~if established by the Commercial Unit Owner~~ and (iii) any Common Expenses and Special Assessments, including, but not limited to, insurance premiums, levied against the Commercial Unit by the Association, minus the Commercial Unit Designated Cost which is 10.3% of the following budget categories: Reserves, Utilities, Insurance and the annual CVMA (formerly RVMA) assessment, (currently \$0.40 per square foot of 15,205 square feet), all as established in the Annual Budget as provided by the terms of the Settlement Agreement as set forth in Article VI of this Declaration; provided, however, that the Commercial Unit Owner shall be solely responsible for and shall pay all taxes assessed upon the Commercial Unit. In addition, each Resort Unit Owner shall pay one hundred (100%) percent of the Commercial Services Fee. The Commercial Services Fee shall be payable in consideration of the Commercial Unit Owner's agreement to provide access to

Underlined text indicates additions;
~~Struck-through~~ text indicates deletions.

those hotel services that may generally be available from time to time (including access to such items as concierge, front desk, central telephone, etc.) as established in the Annual Budget as provided by the terms of the Settlement Agreement. No Owner may waive or otherwise escape liability for Charges for the Shared Costs by non-use (whether voluntary or involuntary) of the Commercial Unit or abandonment of the right to use same. Notwithstanding anything herein contained to the contrary, the Commercial Unit Owner shall be excused and relieved from any and all maintenance, repair and/or replacement obligations with respect to the Commercial Unit to the extent that the funds ~~necessary to perform same~~ provided by the Annual Budget as established pursuant to the terms of the Settlement Agreement, ~~to the extent the obligation of the Resort Unit Owners are not available through the Charges imposed and actually collected.~~ The Commercial Unit Owner shall have no obligation to fund and/or advance any deficit or shortfall in funds which were the obligation of the Resort Unit Owners under the terms of the Settlement Agreement in order to properly perform the maintenance, repair and/or replacement obligations described herein.

3.4 An easement is hereby reserved and created in favor of the Commercial Unit Owner, and its designees over the Project for the purpose of entering onto the Project for the performance of the maintenance, repair and replacement obligations herein described.

3.5 Charges to Unit Owners; Lien

3.5.1 Developer, for all Units now or hereafter located within the Project, hereby covenants and agrees, and each Owner of any Resort Unit, by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Commercial Unit Owner annual Charges for the operation and insurance of, and for payment of its proportionate share of the Shared Costs, the establishment of reasonable reserves for the replacement of the Shared Components and the furnishings and furnishings thereof, capital improvement Charges, special Charges and all other Charges hereinafter referred to or lawfully imposed by the Commercial Unit Owner in connection with the repair, replacement, improvement, maintenance, management, operation, and insurance of the Shared Components, all such Charges to be fixed, established and collected from time to time as established in the Annual Budget pursuant to the terms of the Settlement Agreement and Article VI of this Declaration. ~~herein provided.~~ The annual Charge, capital improvement Charge and special Charge, established by the Annual Budget, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a Charge on the Resort Units and shall be a continuing lien upon the Resort Units against which each such Charge is made and upon all improvements thereon from time to time existing. Each such Charge, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of such Resort Units at the time when the Charge fell due and all subsequent Owners of that Unit until paid, except as provided in paragraph 3.7 below.

Underlined text indicates additions;
~~Struck-through~~ text indicates deletions.

Reference herein to Charges shall be understood to include reference to any and all of said Charges whether or not specifically mentioned. Each Unit, except for the Commercial Unit, shall be assessed a "proportionate share" of the Shared Costs established by the Annual Budget pursuant to the terms of the Settlement Agreement and Article VI of this Declaration. The proportionate share for each Resort Unit shall be as follows: ~~100%~~ 95.5% of all Shared Costs, less the Commercial Unit Designated Cost, shall be assessed against all Units other than the Commercial Unit (and paid solely by the Owners of Units other than the Commercial Unit Owner), with each such Unit obligated for a fraction of such Shared Costs, the numerator of which is the percentage share allocated to the applicable Unit, as provided herein, and the denominator of which is the aggregate of all percentage shares allocated to all Resort Units, as provided herein. The Shared Costs assessable against Resort Unit Owners shall be assessed to the Association and collected by the Association as a Common Expense.

3.5.2 In addition to the regular and capital improvement Charges which are or may be levied hereunder, the Commercial Unit Owner shall have the right to collect reasonable reserves for the replacement of the Shared Components and the furnishings and finishings thereof and to levy as special Charges against an Owner(s) to the exclusion of other Owners for the repair or replacement of damage to any portion of the Commercial Unit (including, without limitation, improvements, furnishings and finishings therein) caused by the misuse, negligence or other action or inaction of an Owner or his guests, tenants or invitees. Any such special Charge shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure procedures and late Charges and interest. Any special Charge levied hereunder shall be due within a reasonable time ~~the time~~ specified by the Commercial Unit Owner in the action imposing such Charge. The annual regular Charges provided for in this Article shall commence on the first day of the month next following the recordation of this Declaration and shall be applicable through December 31 of such year. Each subsequent annual Charge shall be imposed for the year beginning January 1 and ending December 31. The annual Charges shall be payable in advance in monthly installments, or in annual, semi- or quarter-annual installments if so determined by the Commercial Unit Owner (absent which determination they shall be payable monthly). The Charge amount (and applicable installments) may be changed at any time by the Commercial Unit Owner from that originally stipulated or from any other Charge that is in the future adopted by the Commercial Unit Owner only so long as any such Charges are consistent with the terms of the Settlement Agreement. The original Charge for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, at any appropriate time during the year), but the amount of any revised Charge to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year. The Commercial Unit Owner shall fix the date of commencement and the amount of the Charge against the Resort Units for each Charge period, to the extent practicable, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Resort Units and Charges applicable thereto which shall be kept in the office of the Commercial Unit Owner and shall be open to inspection by any Owner. Written notice of the Charge shall thereupon be sent to every Owner subject thereto twenty (20) days prior to payment of the first installment thereof, except as to special Charges. In the event no

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such notice of the Charges for a new Charge period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

3.6 If the Charges (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such Charges (or installments) shall become delinquent and shall, together with late Charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Unit and all improvements thereon which shall bind such Unit in the hands of the then Owner, and such Owner's heirs, personal representatives, successors and assigns. Except as provided in paragraph 3.7 to the contrary, the personal obligation of an Owner to pay such Charge shall pass to such Owner's successors in title and recourse may be had against either or both. If any installment of a Charge is not paid within fifteen (15) days after the due date, at the option of the Commercial Unit Owner, a late Charge not greater than the maximum amount permitted by law may be imposed (provided that only one late Charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late Charge shall accrue interest as provided herein but shall not be subject to additional late Charges; provided further, however, that each other installment thereafter coming due shall be subject to one late Charge each as aforesaid) and the Commercial Unit Owner may bring an action at law against the Owner(s) personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Unit on which the Charges and late Charges are unpaid and all improvements thereon, may foreclose the lien against the applicable Unit and all improvements thereon on which the Charges and late Charges are unpaid, or may pursue one or more of such remedies at the same time or successively, and attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same, in such action shall be added to the amount of such Charges, late Charges and interest secured by the lien, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels. Failure of the Commercial Unit Owner (or any collecting entity) to send or deliver bills or notices of Charges shall not relieve Owners from their obligations hereunder. The Commercial Unit Owner shall have such other remedies for collection and enforcement of Charges as may be permitted by applicable law. All remedies are intended to be, and shall be, cumulative.

3.7 The lien of the Commercial Unit Owner for Charges shall be subordinate to real property tax liens and the lien of any first mortgage held by an Institutional Lender; provided, however, that any such Institutional Lender when in possession, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such Institutional Lender acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or Institutional Lender, shall hold title subject to the liability and lien of any Charge coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid Charge which cannot be collected as a lien against any Unit by reason of the provisions of this Article shall be deemed to be a part of the Shared Costs.

3.8 In the event (and only in the event) that the Commercial Unit Owner fails

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to maintain the Shared Components as required under this Declaration and provided in the Annual Budget as provided by the Settlement Agreement, the Association shall have the right to perform such duties; provided, however, that same may only occur after thirty (30) days' prior written notice to the Commercial Unit Owner and provided that the Commercial Unit Owner has not effected curative action within said thirty (30) day period (or if the curative action cannot reasonably be completed within said thirty (30) day period, provided only that the Commercial Unit Owner has not commenced curative actions within said thirty (30) day period and thereafter diligently pursued same to completion). To the extent that the Association must undertake maintenance responsibilities as a result of the Commercial Unit Owners' failure to perform same, then in such event, but only for such remedial actions as may be necessary, the Association shall be deemed vested with the Charge rights of the Commercial Unit Owner hereunder for the limited purpose of obtaining reimbursement from the Commercial Unit Owner for the costs of performing such remedial work.

3.9 The Commercial Unit Owner shall maintain financial books and records showing its actual receipts and expenditures with respect to the maintenance, operation, repair, replacement, alteration and insurance of the Shared Components, including the then current budget and any then proposed budget (the "Shared Components Records"). The Shared Components Records need not be audited or reviewed by a Certified Public Accountant. The Shared Components Records shall at all times, during reasonable business hours, be subject to the inspection of any Member of the Association.

3.10 Notwithstanding the duty of the Commercial Unit Owner to maintain and repair the Shared Components, the Commercial Unit Owner shall not be liable to any other Owners (nor their guests, tenants or invitees) for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Shared Components. Further, the Commercial Unit Owner shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements or other activities done by or on behalf of any Owners regardless of whether or not same shall have been approved by the Commercial Unit Owner pursuant to the provisions hereof. The Commercial Unit also shall not be liable to any Owner or lessee or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Commercial Unit Owner did not obtain or maintain insurance (or carried insurance with any particular deductible amount) for any particular matter where: (i) such insurance is not required hereby; or (ii) the Commercial Unit Owner could not obtain such insurance at reasonable costs or upon reasonable terms.

3.11 No alteration, addition or modification to a Unit or the Common Area and Facilities may in any manner affect the Commercial Unit or any portion of the Shared Components without the prior written consent of the Commercial Unit Owner (which consent may be withheld in its sole discretion).

3.12 No Owner may exempt himself from liability for his contribution towards the Shared Costs by waiver of the use or enjoyment of any of the Shared Components or by abandonment of his Unit.

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3.13 The provisions of this Article 3 shall not be amended, modified or in any manner impaired and/or diminished, directly or indirectly, without the prior written consent of the Commercial Unit Owner. In the event of any conflict between the provisions of this Article 3, and the provisions of any other Article of this Declaration, the provisions of this Article 3 shall prevail and govern.

3.14 The Commercial Unit Owner shall notify the Association of the portion of the Shared Costs attributable the Owners. The Association shall include such portion of the Shared Costs in its Annual Budget as determined by the provisions of the Settlement Agreement annual-budget as a Charge from the Commercial Unit Owner as provided by and Article VI of this Declaration. Provided however, the Shared Costs shall be assessed only against the Resort Units and not against the Commercial Unit. Both the Commercial Unit Owner and the Association shall have lien rights to collect the Shared Costs provided, however, that the lien of the Commercial Unit Owner shall be superior to the lien of the Association.

3.15 To the extent not prohibited by law, the Commercial Unit Owner has the right to subdivide the Commercial Unit into smaller Commercial Units and to allocate the Shared Costs among such sub-Commercial Units, without the consent of the Association, any Owners or any mortgagees. There will be a single bill from the Commercial Unit Owner to the Association for all of the Shared Costs, and it will be the responsibility of the Commercial Unit Owner or its designee to allocate the Shared Costs among the various owners of the sub-Commercial Units.

5. The following Sections of Article VI of the Declaration are hereby amended as follows:

ARTICLE VI

Common Expenses and Costs and Expenses Relating to Limited Common Area and Facilities

To the extent consistent with this Declaration and the Act, all provisions of the Bylaws relating to Common Expenses and the rights and remedies of the Association in connection therewith are hereby incorporated into this Declaration by reference. If there is a conflict between the Bylaws and this Declaration relating to Common Expense, the terms and provisions of this Declaration will control.

Common Expenses mean and include all sums designated in this Declaration or in the Bylaws as Common Expenses and shall also include Charges and Shared Costs, all sums incurred by or on behalf of the Association in the conduct and management of the affairs of the Association pursuant to this Declaration and the Bylaws.

- 6.1 The interest of any Owner in the reserves of the Association may not (except upon the termination of the common interest community established by this

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Declaration) be withdrawn or assigned separately, but shall be deemed to be transferred automatically with each transfer of the Unit, whether or not mentioned or described expressly in the transfer document. The Association shall establish an adequate reserve, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the Common Area and Facilities and the Shared Components and other facilities as provided by the Budget Methodology Agreement and the Settlement Agreement. The reserve may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance.

6.2 Except as otherwise provided in this Declaration or the Bylaws, each Owner shall be liable for and pay a share of the Common Expenses, in proportion to the Allocated Interest appurtenant to his Unit. Assessments of Common Expenses shall be payable in monthly installments on the first day of each month for whole Owners, and annually for Owners of Timeshare Interests, or at such other times as shall be determined by the Board of Directors. Any portion of an Owner's assessments used or to be used by the Association for capital improvements or any other capital expenditure shall not be treated as income to the Association but shall be treated as a capital contribution by the Owners to the Association and shall be credited by the Association upon its books as paid in surplus. Regular assessments against all Units shall commence on the date of the first conveyance of a Unit, or a timeshare interest therein.

6.3 The Association will pay or cause to be paid, on behalf of the Owners, all Common Expenses as approved in the Annual Budget. Each Owner, as principal, shall be liable for and pay his share, determined as provided in this Declaration and the Bylaws, of all Common Expenses; and the Association shall be responsible, as agent for each Owner, only to transmit the payments made by the Owner to third persons to whom such payments must be made by the Owner. The Association may require the Manager to assist in its duties hereunder. The Association or the Manager collecting the Common Expenses shall not be liable for payment of such Common Expenses as principal but only as the agent of all Owners to transmit said payments to third persons to whom such payments must be made by the Owners.

6.4 Subject to the Act:

6.4.1 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety and welfare of the Owners, the management, maintenance, care, preservation and protection of the Project, enhancing the quality of life in the Project and the value of the Project including, without limitation, the improvement and maintenance of the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and Facilities, or in furtherance of any other duty or power of the Association.

6.4.1a Budget Methodology Agreement. As part of the Final Judgment in the certain litigation styled Lodge at Westgate Park City Resort and Spa Condominium Association, Inc. v. Westgate Resorts, Ltd., et al, Case No.

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130500585 in the Third Judicial District Court for Summit County, Utah (the Lawsuit), the Court enforced the Budget Methodology Agreement as a binding agreement that superseded the Declaration, Bylaws and Shared Use Agreement to the extent that a conflict exists between them. Pursuant to the Settlement Agreement, the Annual Budget shall be determined by the Budget Methodology Agreement as provided in the Settlement Agreement.

6.4.2 Regular Assessments. The Board is expressly authorized to adopt and amend budgets from time to time. Not later than November 1 of each year, thirty (30) days prior to the beginning of each fiscal year, the Developer shall provide to the Board its proposed budget, prepared in accordance with the preceding Section 6.4.1a. The Board will have twenty (20) days after delivery of the Developer's proposed budget in which to approve or reject the budget provided by the Developer. If the Board rejects the Developer's proposed budget, the Board shall notify the Developer of the reasons for its rejection and the Board and the Developer shall work in good faith to resolve their differences. Failure to respond, in writing, within said twenty (20) day period shall be deemed to be the Board's approval of the Developer's proposed budget. the Board shall adopt a pro-forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total Common Expenses to be incurred for such fiscal year. The Board shall send a written summary of the budget to all Owners within thirty (30) days after the adoption of the proposed budget. The Board shall at that time determine the amount of the regular Assessment to be paid by each Owner. Each Owner shall thereafter pay to the Association his regular Assessment in equal monthly installments on the first day of each month. In the event the Board shall determine that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and prepare a supplemental estimate of the Common Expenses and determine the revised amount of the regular Assessment against each Owner, and the date or dates when due. The Owners shall have no right to ratify any budget, or amendment thereof, adopted by the Board. Any controversy or any disputes regarding the annual budget, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, before a single arbitrator. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. In any event, any demand for arbitration regarding the annual budget must be filed before the beginning of the fiscal year for the budget in dispute. The arbitrator shall resolve any budget disputes based upon the terms of the Settlement Agreement, the agreed upon budget procedures set forth therein and the exhibits thereto. The Arbitrator's decision shall be binding only for the particular annual budget at issue and shall not apply to any future budgets.

5. Capitalized words and phrases shall have the meaning set forth in the Declaration, unless otherwise defined herein.

6. Except as herein modified, the Declaration shall remain unmodified and in full force and effect. To the extent of any conflict, the terms of this Amendment shall control and govern.

[Signature Page to Follow]

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IN WITNESS WHEREOF, the Developer has executed this Fifth Amendment to the Declaration on the date set forth above.

Signed, Sealed and Delivered
in the presence of:

WESTGATE RESORTS, LTD., a Florida limited
partnership

BY: WESTGATE RESORTS, INC., a
Florida corporation, its general partner

Print Name:

Print Name:

BY: _____
DAVID A. SIEGEL, President

STATE OF FLORIDA)
) SS
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by DAVID A. SIEGEL, as President of WESTGATE RESORTS, INC., a Florida corporation, as General Partner of WESTGATE RESORTS, LTD., a Florida limited partnership, on behalf of the partnership. He is personally known to me or has produced _____ as a type of identification.

My commission expires:

Print Name:
Notary Public, State of:
Serial Number, if any:

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THE LODGE AT WESTGATE PARK CITY
RESORT & SPA OWNERS' ASSOCIATION,
INC.

Print Name:

Print Name:

BY: _____
James Preston, President

STATE OF FLORIDA)
) SS
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
by JAMES PRESTON, as President of THE LODGE AT WESTGATE PARK CITY RESORT & SPA
OWNERS' ASSOCIATION, INC. He is personally known to me or has produced
_____ as a type of identification.

My commission expires:

Print Name:
Notary Public, State of:
Serial Number, if any:

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Exhibit "1 "
Legal Description

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Exhibit "2"
Settlement Agreement

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THIS INSTRUMENT PREPARED BY:
AND RETURN TO:

SECOND AMENDMENT TO SHARED USE AGREEMENT

This Second Amendment to Shared Use Agreement is made this _____ day of _____, 2020, by and between THE LODGE AT WESTGATE PARK CITY RESORT & SPA CONDOMINIUM ASSOCIATION, INC., a Utah non-profit corporation (hereinafter referred to as the "Condominium Association"), WESTGATE PARK CITY RESORT & SPA OWNERS ASSOCIATION, INC., a Utah non-profit corporation (hereinafter referred to as the "Timeshare Association"), and WESTGATE RESORTS, LTD., a Florida limited partnership (hereinafter referred to as "Developer"). The Condominium Association and the Timeshare Association shall be referred to collectively as the "Associations."

WITNESSETH:

WHEREAS, Developer and the Associations are a party to that certain Shared Use Agreement recorded August 29, 2007 as Entry No. 824052, in Book 1886, at Page 91 of the Official Records of Summit County, Utah, which Shared Use Agreement affects the real property described on Exhibit "A" attached hereto and incorporated herein, as more particularly set forth therein.

WHEREAS, Developer and the Associations desire to amend the Shared Use Agreement as set forth below.

NOW, THEREFORE, the Shared Use Agreement is amended as follows:

1. The above recitals are true and correct and form a material part of this Amendment.
2. Section 7 of the Shared Use Agreement is amended as follows:

a. All costs and expenses incidental to the maintenance, operation, repair and replacement of the Shared Amenities shall be assessed against each Association allocated with the Timeshare Project paying 45% of the total of such costs and the Condominium Project paying 55% of the total of such costs, subject to the following: The Condominium Association's obligation is limited to the payment of an "Amenity Use Fee." The Condominium Association's Amenity Use Fee for 2020 shall be \$500,455, which is inclusive of a 10% management fee as indicated by that certain Settlement Agreement dated [INSERT] by and between the Condominium Association and the Developer (the "Settlement Agreement") and all attachments including a "2021 Base Amenity Budget," a copy of which Settlement Agreement is attached hereto marked Exhibit "1" and incorporated herein by this reference. The Condominium Association's Amenity Use Fee for 2021, assuming historical occupancy levels, will be no more than \$901,238, as indicated by the 2021 Base Amenity Budget, inclusive of a 10% management fee payable to Westgate. Due to uncertainties resulting from the COVID-19 pandemic, the Condominium Association's Amenity Use Fee will be reduced and paid based on actual occupancy in 2021 compared to occupancy during the period from March 1, 2019 to February 28, 2020 according to the terms set forth in paragraph 2.d. of the Settlement Agreement. Annual increases in the Condominium's Amenity Use Fee

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over the 2021 Base Amenity Budget will be limited to no more than the amount of 55% of the Developer's cost increases in the 2021 Base Amenity Budget categories, subject to the following limitations and carve outs. Annual increases in the 2021 Base Budget categories for the Condominium Association's Amenity Use Fee over the 2021 Base Budget and then from year to year, shall be commercially reasonable based on the actual increase in the cost of labor and materials in said categories and will be limited as follows: (i) labor increases shall be limited to the actual percentage increase from the prior year as determined by the statistics issued by PayScale for competitive properties as summarized on Exhibit "D" to the Settlement Agreement; (ii) material cost increases shall be limited to no more than five percent (5%) from the prior year, unless there are unforeseen costs outside the reasonable control of the parties including, but not limited to, technology changes, mechanical issues, labor strikes, wars, insurrections, hostilities, acts of terrorism, or acts of God, in which case there shall be no limitation on the increase in costs affected by such unforeseen circumstances; and (iii) employee headcount increases or any reduction in services will require mutual approval from the Condominium Association and the Developer. The parties agree to act in good faith to resolve any disagreements regarding proposed increases, to cooperate to minimize costs. Upon request of the Condominium Association, the Developer will solicit competitive bids from at least two independent contractors or suppliers for any specific services or supplies if the Condominium Association questions the proposed costs and the parties will agree to use the contractor or supplier providing the lowest responsible bid. Notwithstanding the foregoing, the Condominium Association's Amenity Use Fee for 2022 will be no more than \$925,000 and 2023 will be no more than \$950,000.

In the event operations of the Westgate Park City Project are substantially impacted by unforeseen circumstances outside the reasonable control of the parties such as labor strikes, wars, insurrections, hostilities, acts of terrorism, acts of God, pandemic (including the continuation of the COVID-19 if actual occupancy is below 30% calculated as set forth in paragraph 2.d. of the Settlement Agreement) or acts or omissions of any governmental authority (collectively called Force Majeure), the parties shall meet in good faith to negotiate a revised Amenity Use Fee budget. In the event the parties fail to agree to a revised Amenity Use Fee budget, the parties shall follow the procedures as set forth in section 7.e. of this Agreement. The Parties agree to act in good faith to resolve any disagreements regarding proposed increases, to cooperate to minimize costs and to submit any disputes to binding arbitration under the procedure set forth in section 7.e. of this Agreement. Upon request of the Condominium Association, the Developer will solicit competitive bids from at least two independent contractors or suppliers for any specific services or supplies if the Condominium Association questions the proposed costs and the Parties will agree to use the contractor or supplier providing the lowest responsible bid.

~~in proportion to which the square footage of all living units contained within the Timeshare Project and the Condominium Project bears to the total square footage of all living units in both the Timeshare Project and the Condominium Project. The Associations shall assess their respective unit owners, including the Developer, for their respective share of such expenses in accordance with the provisions set forth in the Timeshare Declaration and Condominium Declaration for allocating and making assessments of common expenses. With respect to the Timeshare Association, such Such costs shall include, but not necessarily be limited to, insurance, taxes, labor, administrative personnel, reasonable reserves and a Developer administrative fee equal to 15% of the total of such costs.~~

The Amenity Use Fee shall be used to pay and shall be in satisfaction of the Condominium Association's share of obligations under the Shared Use Agreement. The Shared Amenities shall include all those listed in Exhibit H to the 2009 Budget Methodology as set forth in paragraph 3.c. of the Settlement Agreement including the Parking Garage, the Lobby, Library/Lounge, Indoor/Outdoor Pool, Outdoor Hot tubs (2);

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Tennis Court, Basketball Court, Playground, Outdoor grill Area, Skier Services and Ski Lockers (including skier valet), Common Walkways, Landscaping, Concierge Services, Bell Services, Transportation Services, Security and Internet. Service levels provided by the Developer shall remain the same as provided in 2019, which is reflected in the 2021 Base Amenity Budget. However, the Developer (i) may adjust the hours of services and number of shuttles available to reduce transportation costs; and (ii) may adjust the number of hours of operation for concierge and skier services based upon occupancy levels and staffing needs. All changes in service levels shall be reviewed annually and jointly approved by the Condominium Association acting in a good faith, commercially reasonable manner, and the Developer prior to implementation. In the event of any reduction in service levels, the Condominium Association will receive the benefit of any proportionate cost savings. The Condominium Association shall pay for the entire cost of all pools and amenities located in Building 19 and these costs shall not be part of the Amenity Use Fee.

b. In the event that Developer defaults in its obligation to maintain the Shared Amenities as required hereunder and if such default is not cured after sixty (60) days written notice to Developer by any Association or Authorized User of such default, then the Associations (on behalf of themselves or any aggrieved Authorized User) may, but are not obligated to, perform any such required maintenance, including any reconstruction or repair deemed necessary by the Associations. In the event of any self-help by the Associations in accordance herewith, the Associations shall bill the Developer the Developer's proportionate share under the Timeshare Declaration and Condominium Declaration, both as the owner of any Timeshare Weeks, Condominium Units, or the Commercial Units. The Developer shall be obligated to pay such sum within thirty (30) days of the receipt of the invoice on same. In addition to the foregoing, the Associations, jointly and severally, shall be entitled to pursue any and all legal remedies they may have against Developer in connection with Developer's failure to maintain the Shared Amenities. Basements over and through all portions of the Master Parcel are reserved to the Associations for the purpose of enforcing the Associations' right of self-help under this Section 7.b., and the Associations may only enter any portion thereof to remove or remedy any defaults by the Developer. If the Associations, after notice to Developer of any default in accordance herewith and Developer's continued failure to cure the same, do in fact exercise their right to cure such defaults, the Developer's proportionate share as set forth above shall become a charge and continuing lien against the Developer's interest in the Developer Controlled Property as well as an individual and personal obligation of the Developer; provided, however, that nothing in this Section shall be construed to require Associations to take any action to enforce their rights under this Section 7.b.

c. Notwithstanding anything contained herein to the contrary, the obligation of the Associations for the costs and expenses set forth herein shall apply irrespective of the fact that some or all of these systems and equipment referenced herein, including electrical, mechanical, water, plumbing, sewage and other systems shall not be contained within the boundaries of the Condominium Project or the Timeshare Project. The Developer reserves the right to separately meter any or all utilities in order to carry out the purposes and intentions hereof.

d. For all years subsequent to the first fiscal year of the Associations (the first fiscal year being the period commencing with the recording of this Agreement through December 31st of that year, with the understanding that the first fiscal year may be a partial year, or such other fiscal years may be adopted by the Associations as the first fiscal year), the Developer shall provide to the Associations, by November 1 of each year within thirty (30) days following the end of any such fiscal year, an estimated operating budget for the Shared Amenities for the Timeshare Association and an estimated budget for the Amenity Use Fee for the Condominium Association, for the expenses described above for the ensuing year of the Associations, together with a statement of expenditures for all such expenses incurred by the

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Developer in the maintenance of such areas for the preceding fiscal year of the Associations. The Associations shall have twenty ten (2010) days from the delivery of said notice by the Developer in which to approve or reject the budget provided by the Developer; ~~or, in the alternative, to suggest an alternative budget.~~ If an Association rejects the Developer's proposed budget, the Association shall notify the Developer of the reasons for its rejection and the parties shall work in good faith to resolve their differences. Failure of the Associations to respond, in writing, within said twenty ten (2010) day period shall be deemed to be an approval by the Associations of the proposed budget, assessment. In the event the budget as proposed by the Developer is not approved by either Association as set forth herein, the Associations shall continue to pay the assessments applicable for the previous year. The Developer shall in its sole discretion be entitled to increase the Timeshare Association's total assessment and the Condominium Association's Amenity Use Fee by a sum not to exceed fifteen five (15%) percent of the previous years' assessments and Amenity Use Fee until such budget has been approved by agreement of the parties or determined by arbitration as provided below. ~~as provided herein, by the Associations in order to cover any projected deficits.~~

e. Any controversy or claim under this Agreement or any disputes regarding the annual budget, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, before a single arbitrator. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. In any event, any demand for arbitration regarding the annual budget must be filed before the beginning of the fiscal year for the budget in dispute. The arbitrator shall resolve any budget disputes based upon the terms of this Agreement, the agreed upon budget procedures set forth herein, and the exhibits hereto. The Arbitrator's decision shall be binding only for the particular annual budget at issue and shall not apply to any future budgets. In the event an Association does not approve the budget, the matter shall be submitted for binding arbitration in accordance with the rules of the American Arbitration Association. Each party shall select one (1) arbitrator, and these two (2) arbitrators shall select a third arbitrator. The arbitrators must adopt either the budget proposed by the Developer or the budget proposed by the objecting Association in its entirety and shall have no discretion to alter either budget nor make any compromise in its decision, unless agreed to by both parties. The same procedure shall apply with respect to objections by an the Timeshare Association to a special assessment as provided below. The arbitration provisions contained herein shall be strictly limited to the items set forth herein and shall not apply to any other provisions of this Easement Agreement. In the event that only one Association objects to the budget or the special assessment, the non-objecting Association shall also be a party to the arbitration.

f. In the event the Developer shall, at any time (except during the first fiscal year of the Associations) determine that the estimated amount assessed to the Timeshare Associations for use of the Easements and for Shared Amenities is insufficient to pay the actual maintenance cost thereof (including reserves), the Developer shall immediately notify the Timeshare Associations of the deficit and request the Timeshare Associations to approve a special assessment in order to pay the deficit. The Timeshare Associations shall approve or reject the special assessment within fifteen (15) days of delivery of notice thereof by the Developer. Failure of the Timeshare Associations to respond in writing within the fifteen (15) day period shall be deemed to be an approval of the Timeshare Associations of the assessment. The special assessment shall be payable by the Timeshare Associations within thirty (30) days of approval, as provided for herein.

g. All payments (except special assessments to the Timeshare Association, which are due as provided for in the notice of special assessment) required to be made hereunder by the Associations to the Developer, shall be payable by the Associations on a monthly basis, all payments due in advance on the first day of each month.

Underlined text indicates additions;
~~Struck-through~~ text indicates deletions.

h. Notwithstanding anything contained herein to the contrary, the Developer shall not be required to subsidize any deficits caused by an insufficiency in the budget, including but not limited to a failure by the Associations to approve any operating budget proposed by the Developer or to approve any special assessment proposed by the Developer. In this regard it is understood that the Developer, its successors and assigns shall not be liable to the Associations nor any member of the Associations for a lack of adequate service or for failure to properly maintain the Shared Amenities in the event the Associations fail to approve the budget proposed by the Developer or any special assessment; provided, however, that (i) the Condominium Association's obligation with respect to the Shared Amenities is limited to the Amenity Use Fee as provided in Section 7a, above, and (ii) the Developer's obligations to provide services to and maintain the Shared Amenities for the use of the Condominium Association and its members shall not be reduced except to the extent the Condominium Association fails to pay the Amenity Use Fee or agrees to a reduction in services.

~~i. In addition to the budget referenced herein, Developer may at its option provide to the Associations a separate budget for the costs and expenses set forth herein or may provide for such items of expense to be directly billed to the Associations if, as, and when necessary.~~

3. Section 19 f. shall be amended as follows.

f. Joinder and Consent. All mortgagees and holders of Interest in and to the property encumbered by this Agreement shall execute a Joinder and Consent to all terms and provisions hereof. However, the Developer may further amend the Shared Use Agreement as it pertains to the Timeshare Association without the Condominium Association's consent, provided that there is no change to the Settlement Agreement or the 2020 Base Budget procedures.

4. Capitalized words and phrases shall have the meaning set forth in the Shared Use Agreement, unless otherwise defined herein.

5. Except as herein modified, the Shared Use Agreement shall remain unmodified and in full force and effect. To the extent of any conflict, the terms of this Amendment shall control and govern.

IN WITNESS WHEREOF, the Developer has executed this First Amendment to Shared Use Agreement on the date set forth above.

Underlined text indicates additions;
~~Struck-through~~ text indicates deletions.

Signed, Sealed and Delivered
in the Presence of;

THE LODGE AT WESTGATE PARK CITY RESORT
& SPA CONDOMINIUM ASSOCIATION, INC., a Utah
non-profit corporation

Print Name:

BY: _____
Name: _____
Title: _____
WESTGATE PARK CITY RESORT & SPA OWNERS
ASSOCIATION, INC., a Utah non-profit corporation

Print Name:

BY: _____
Name: _____
Title: _____

WESTGATE RESORTS, LTD., a Florida limited
partnership

BY: WESTGATE RESORTS, INC., a Florida
corporation, General Partner

Print Name:

BY: _____
Name: _____
Title: _____

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
by _____, as _____ of THE LODGE AT WESTGATE PARK CITY
RESORT & SPA CONDOMINIUM ASSOCIATION, INC., a Utah non-profit corporation, on behalf of the
corporation. He is personally known to me or has produced _____ as a type of
identification.

My commission expires:

Print Name: _____
Notary Public, State of: _____
Serial Number, if any: _____

Underlined text indicates additions;
~~Struck-through~~ text indicates deletions.

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
by _____, as _____ of WESTGATE PARK CITY RESORT & SPA
OWNERS ASSOCIATION, INC., a Utah non-profit corporation, on behalf of the corporation. He is
personally known to me or has produced _____ as a type of identification.

My commission expires:

Print Name: _____
Notary Public, State of: _____
Serial Number, if any: _____

STATE OF FLORIDA)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
by _____, as _____ of WESTGATE RESORTS, INC., a Florida
corporation, as General Partner of WESTGATE RESORTS, LTD., a Florida limited partnership, on behalf
of the partnership. He is personally known to me or has produced _____ as a type
of identification.

My commission expires:

Print Name: _____
Notary Public, State of: _____
Serial Number, if any: _____

Underlined text indicates additions;
~~Struck-through~~ text indicates deletions.

**LEGAL DESCRIPTIONS AND TAX PARCEL NUMBERS FOR
SECOND AMENDMENT TO SHARED USE AGREEMENT**

The following property located in Summit County, Utah:

Condominium Project

All units contained in The Lodge at Westgate Park City Resort and Spa Condominium Plat recorded on June 19, 2007 as Entry No. 818012, in Book 1874, at Page 478 of the official records and amended by the plat recorded on January 26, 2009 as Entry No. 863683, in Book 1964, at Page 1823 of the official records.

Timeshare Project

All units contained in the Westgate Park City Resort & Spa, a Timeshare Resort as described in that certain Declaration of Covenants, Conditions and Restrictions recorded in Book 1442, at Page 1, and as amended by amendments recorded in Book 1521, at Page 700, Book 1597, at Page 338, Book 1719 at Page 1956, Book 1766 at Page 1157, Electronic Record Number 806270, Electronic Record Number 806271, Book 1903, at Page 1820, Book 1941, at Page 1298, Book 1959, at Page 0548, and Book 1971, at Page 0812, all at the Summit County Recorder's office as the same may be amended from time to time.

Developer Controlled Property

All of Parcel 1, Westgate at the Canyons Final Subdivision Plat, according to the official plat thereof on file and of record in the Summit County Recorder's office.

Tax parcel number WGC-1-2AM.

0451302 LWPCRS-3301A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451319 LWPCRS-3301B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451326 LWPCRS-3303A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451333 LWPCRS-3303B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451340 LWPCRS-3305A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451357 LWPCRS-3305B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451364 LWPCRS-3400
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451371 LWPCRS-3401
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451388 LWPCRS-3402
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451395 LWPCRS-3403A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451403 LWPCRS-3403B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451410 LWPCRS-3404
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451427 LWPCRS-3405
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5601 WINDHOVER DR
ORLANDO, FL 32819

0451434 LWPCRS-3406
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451441 LWPCRS-3500
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5601 WINDHOVER DR
ORLANDO, FL 32819

0451458 LWPCRS-3501A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451465 LWPCRS-3501B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451472 LWPCRS-3502
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451489 LWPCRS-3503A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451496 LWPCRS-3503B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451504 LWPCRS-3504
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451511 LWPCRS-3505
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451528 LWPCRS-3506A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451535 LWPCRS-3506B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451542 LWPCRS-3508
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5601 WINDHOVER DR
ORLANDO, FL 32819

0451559 LWPCRS-3510
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5601 WINDHOVER DR
ORLANDO, FL 32819

0451566 LWPCRS-3512A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451573 LWPCRS-3512B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451580 LWPCRS-3514
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451597 LWPCRS-3516
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ORLANDO, FL 32819

0451605 LWPCRS-3518
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ORLANDO, FL 32819

0451612 LWPCRS-3600
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ORLANDO, FL 32819

0451629 LWPCRS-3601A
WESTGATE RESORTS LTD
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ORLANDO, FL 32819

0451636 LWPCRS-3601B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451643 LWPCRS-3602
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451650 LWPCRS-3603A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451667 LWPCRS-3603B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451674 LWPCRS-3604
WESTGATE RESORTS LTD
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ORLANDO, FL 32819

0451681 LWPCRS-3605
WESTGATE RESORTS LTD
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ORLANDO, FL 32819

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5601 WINDHOVER DR
ORLANDO, FL 32819

0451713 LWPCRS-3610
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ORLANDO, FL 32819

0451720 LWPCRS-3612
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ORLANDO, FL 32819

0451737 LWPCRS-3614
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ORLANDO, FL 32819

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ORLANDO, FL 32819

0451751 LWPCRS-3618
WESTGATE RESORTS LTD
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ORLANDO, FL 32819

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5601 WINDHOVER DR
ORLANDO, FL 32819

0451775 LWPCRS-3700
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451782 LWPCRS-3701A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451799 LWPCRS-3701B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451807 LWPCRS-3702
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5601 WINDHOVER DR
ORLANDO, FL 32819

0451814 LWPCRS-3703A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451821 LWPCRS-3703B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0451838 LWPCRS-3704
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ORLANDO, FL 32819

0451845 LWPCRS-3705
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0451922 LWPCRS-3800
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5601 WINDHOVER DR
ORLANDO, FL 32819

0451939 LWPCRS-3801A
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ORLANDO, FL 32819

0451946 LWPCRS-3801B
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ORLANDO, FL 32819

0451953 LWPCRS-3802
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5601 WINDHOVER DR
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0451960 LWPCRS-3803A
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0451977 LWPCRS-3803B
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5601 WINDHOVER DR
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0451984 LWPCRS-3804
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5601 WINDHOVER DR
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0451991 LWPCRS-3805
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0452002 LWPCRS-3806A
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ORLANDO, FL 32819

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0452026 LWPCRS-3808
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ORLANDO, FL 32819

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ORLANDO, FL 32819

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0452312 LWPCRS-4300
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ORLANDO, FL 32819

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WESTGATE RESORTS LTD
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ORLANDO, FL 32819

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5601 WINDHOVER DR
ORLANDO, FL 32819

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5601 WINDHOVER DR
ORLANDO, FL 32819

0452521 LWPCRS-4411A
WESTGATE RESORTS LTD
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ORLANDO, FL 32819

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ORLANDO, FL 32819

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ORLANDO, FL 32819

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ORLANDO, FL 32819

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ORLANDO, FL 32819

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ORLANDO, FL 32819

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ORLANDO, FL 32819

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ORLANDO, FL 32819

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ORLANDO, FL 32819

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ORLANDO, FL 32819

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ORLANDO, FL 32819

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0452932 LWPCRS-4611B
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ORLANDO, FL 32819

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ORLANDO, FL 32819

0452994 LWPCRS-4702
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5601 WINDHOVER DR
ORLANDO, FL 32819

0453005 LWPCRS-4703A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453012 LWPCRS-4703B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453029 LWPCRS-4704
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453036 LWPCRS-4705
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453043 LWPCRS-4706
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453050 LWPCRS-4707
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453067 LWPCRS-4708
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453074 LWPCRS-4709
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453081 LWPCRS-4710
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453098 LWPCRS-4711A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453106 LWPCRS-4711B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453113 LWPCRS-4712
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453120 LWPCRS-4714
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453137 LWPCRS-4716A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453144 LWPCRS-4716B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453151 LWPCRS-4800
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453168 LWPCRS-4801
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453175 LWPCRS-4802
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453182 LWPCRS-4803
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453199 LWPCRS-4804
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453207 LWPCRS-4805
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453214 LWPCRS-4806
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453221 LWPCRS-4807A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453238 LWPCRS-4807B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453245 LWPCRS-4808
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453252 LWPCRS-4809
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453269 LWPCRS-4810
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453276 LWPCRS-4811
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453283 LWPCRS-4812
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453290 LWPCRS-4814
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453308 LWPCRS-4816
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453315 LWPCRS-4907
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453322 LWPCRS-4909
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453339 LWPCRS-4910
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453346 LWPCRS-4911A
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453353 LWPCRS-4911B
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453360 LWPCRS-4912
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453377 LWPCRS-4914
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0453384 LWPCRS-4916
WESTGATE RESORTS LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0459616 LWPCRS-CRC
WESTGATE RESORT LTD
5601 WINDHOVER DR
ORLANDO, FL 32819

0433312 MLPC-1-AM
COOK AARON L H/W (JT)
2025 E MARSHALL AVE
PHOENIX, AZ 85016

0433320 MLPC-2-AM
ROLAND MACDONALD I LC
5518 S WALKER WOODS LN
SALT LAKE CITY, UT 84117

0433338 MLPC-3-AM
ROLAND MACDONALD I LC
5518 S WALKER WOODS LN
SALT LAKE CITY, UT 84117

0433346 MLPC-4-AM
GRAVES CHARLES B H/W (JT)
3327 AMERICAN SADDLER DR
PARK CITY, UT 84060

0433353 MLPC-5-AM
COOK TIMOTHY L H/W (JT)
1 WEST VISTA AVE
PHOENIX, AZ 85021

0433361 MLPC-6-AM
ROLAND MACDONALD I LC
5518 S WALKER WOODS LN
SALT LAKE CITY, UT 84117

0433379 MLPC-7-AM
SNYDER MATTHEW S
2060 PADDINGTON DR
PARK CITY, UT 84060

0433387 MLPC-8-AM
ROLAND MACDONALD I LC
5518 S WALKER WOODS LN
SALT LAKE CITY, UT 84117

0433395 MLPC-9-AM
GOLDMAN PAUL S
PO BOX 682844
PARK CITY, UT 84068-2844

0433403 MLPC-10-AM
ROLAND MACDONALD I LC
5518 S WALKER WOODS LN
SALT LAKE CITY, UT 84117

Tax Parcel Numbers: LWPCRS-3301A-AM
LWPCRS-3301B-AM
LWPCRS-3303A-AM
LWPCRS-3303B-AM
LWPCRS-3305A-AM
LWPCRS-3305B-AM
LWPCRS-3400-AM
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LWPCRS-3402-AM
LWPCRS-3403A-AM
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LWPCRS-3404-AM
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LWPCRS-3406-AM
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